

FINANCIAL SERVICES AND GENERAL GOVERNMENT APPROPRIATIONS FOR 2009

HEARINGS

BEFORE A
SUBCOMMITTEE OF THE
COMMITTEE ON APPROPRIATIONS
HOUSE OF REPRESENTATIVES
ONE HUNDRED TENTH CONGRESS
SECOND SESSION

SUBCOMMITTEE ON FINANCIAL SERVICES AND GENERAL GOVERNMENT APPROPRIATIONS

JOSÉ E. SERRANO, New York, *Chairman*

CAROLYN C. KILPATRICK, Michigan	RALPH REGULA, Ohio
C.A. "DUTCH" RUPPERSBERGER, Maryland	MARK STEVEN KIRK, Illinois
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MAURICE D. HINCHEY, New York	
ADAM SCHIFF, California	

NOTE: Under Committee Rules, Mr. Obey, as Chairman of the Full Committee, and Mr. Lewis, as Ranking
Minority Member of the Full Committee, are authorized to sit as Members of all Subcommittees.

DALE OAK, BOB BONNER, KARYN KENDALL, and FRANCISCO CARRILLO,
Subcommittee Staff

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Part 8

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FINANCIAL SERVICES AND GENERAL GOVERNMENT APPROPRIATIONS FOR 2009

TUESDAY, MARCH 11, 2008.

CONSUMER PRODUCT SAFETY COMMISSION

WITNESSES

**HON. NANCY A. NORD, ACTING CHAIRMAN, CONSUMER PRODUCT
SAFETY COMMISSION**

**HON. THOMAS HILL MOORE, COMMISSIONER, CONSUMER PRODUCT
SAFETY COMMISSION**

CHAIRMAN SERRANO'S OPENING STATEMENT

Mr. SERRANO. The subcommittee will come to order. Mr. Regula, our ranking member, will be joining us in a few minutes, but he has asked us to go ahead and begin.

I welcome you to this hearing of the Financial Services and General Government Subcommittee. Today's hearing is on the fiscal year 2009 budget request of the Consumer Product Safety Commission. The CPSC's emphasis is on protecting consumers from an unreasonable risk of injury and death that could result from faulty and defective products.

The agency watches over 15,000 different types of consumer products. The actions of the CPSC have contributed to substantial reductions in consumer product-related deaths from fire, electrocution, carbon monoxide, poisoning and accidents relating to baby products such as walkers and cribs. However, as we have seen from the increase in recalls during the past several months, there is much more to be done.

Until this year, the CPSC was an agency that was slowly bleeding to death from budget cuts and staff reductions, the Commission had 978 employees in 1980; at the beginning of this year, they had fewer than 400. At the same time, the number of imported consumer products has been increasing substantially. Over 85 percent of all recalled products are imports and over 85 percent of all toys sold in the United States are made overseas. Recalls of unsafe toys and other children's products are making headlines, the CPSC clearly did not have enough resources, nor was it as aggressive as it should have been to keep up with the increases in imports and to effectively perform its mission.

This subcommittee responded by providing the Commission with an \$80 million appropriation in fiscal year 2008, which was an increase of \$17 million, or 27.5 percent over the year before. This money is well spent. The Commission has started to replenish its staff and will be up to 444 full time equivalent staff by the end of

the fiscal year. Many of these additional staff will help begin an import safety initiative. This improvement of staff resources is just a start as the Commission is still well below historical levels of staffing. We need to continue to make sure the Commission is well equipped to do its job.

The additional funds we provided will also modernize CPSC's testing laboratory, which is antiquated and in dire need of upgrade. Information technology will also be improved so that the Commission will have the tools and databases to identify, track and take action to remove dangerous products from the marketplace and our homes.

We need to build on the progress we are making toward restoring the strength of the agency. Fiscal year 2009 budget request for the Commission is the same as appropriated for this year, 80 million, but it does include some programmatic increases because of several one-time expenses occurring in fiscal year 2008. These increases include the funding of 24 staff for the import safety initiative and I commend the Commission for continuing this effort.

I believe that there is much more to be done, and this subcommittee will work hard to ensure that the CPSC has the resources to meet the responsibilities. While the budget for this Commission is relatively small, the Commission's mission is essential.

I am pleased to welcome Nancy Nord, the acting Chair of the CPSC, and Thomas Moore, a member of the Commission. We have a lot to cover today in this hearing, so I ask that each witness observe a 5-minute maximum for their opening statements. Your complete written statements will be submitted for the record. We will follow your statements with a round of questions from members and the members, once Mr. Regula is through with his questions, will be reminded carefully and courageously by the gavel when your 5 minutes are up.

Now it is my honor and pleasure to recognize my friend and colleague, Mr. Regula.

MR. REGULA'S OPENING STATEMENT

Mr. REGULA. Thank you, Mr. Chairman. I think you covered it well and certainly protecting consumers should be the top concern. I often think we buy products, we use products and we always assume that somebody, somebody being government, is ensuring our food is safe, that our products are safe. We take a lot for granted in this country in the assumption that everything is being watched and supervised by somebody. So the somebody is each of you in the case of consumer products. We welcome you here this morning and look forward to your testimony.

Mr. SERRANO. Thank you, Mr. Regula. We will hear first from Chairman Nord and then from Commissioner Moore, we welcome you again. Thank you.

CHAIRMAN NORD'S TESTIMONY

Ms. NORD. Thank you so much, Mr. Chairman. I appreciate the opportunity to present the appropriation request for the U.S. Consumer Product Safety Commission for fiscal year 2009. As you know, we are a small independent bipartisan regulatory agency

created by Congress to protect the public from unreasonable risks of injury associated with consumer products. As the Committee also well knows, our agency has been in the spotlight over the last year. Frankly, I am pleased with the national attention that we have gotten since this has greatly raised public awareness of our agency and our mission.

In testimony before Congress last year, I said that if you give me more resources, I will put them to good use. Last December, the Appropriation Committees did precisely that, and significantly increased the CPSC budget for fiscal year 2008. I am proud to report to this committee that we are putting these funds to good use.

For fiscal year 2009, we are requesting \$80 million to carry out our safety mission for American families. This is an almost \$17 million increase over our requested funding level for fiscal year 2008 and matches the Committee's final appropriation for the current fiscal year.

With these 2008 and 2009 funds, CPSC will be able to complete the modernization of our testing laboratory, overhaul our information technology infrastructure, fund our import safety initiative, expand our new early warning system and hire more technical and support staff.

While the American home environment has never been safer, the American marketplace is dynamic and there is always more work to be done and new challenges to be met, the greatest challenge now being that of import safety, especially of imports from China. The Commission has taken aggressive steps to meet this challenge with strong enforcement of our laws, enhanced communications with the Chinese Government and industry, and proactive training and education on site in China.

The CPSC is spending our 2008 funding on increased staff, work space and information technology resources. The CPSC's number of actual FTEs at the start of 2008 was under 400. Our aggressive goal is to increase that number to 444 by October 1st, an increase of over 50 employees. Some of these employees will be working for the first time at the Nation's largest ports of entry. Our new import surveillance division is designed to be the front line of defense, working to prevent dangerous products from entering the country.

As you know, and your committee's staff has witnessed firsthand, CPSC's testing laboratory needs to be modernized to better support our product safety work, including the new work generated by our import safety initiative. I am pleased to report the Commission is now moving forward with the site selection process for a new laboratory, and we hope to move into a new facility in 2009.

The agency is also spending new funding on important improvements to our information technology infrastructure. Achieving the agency mission is dependent on our IT systems and an increased emphasis on import safety demands greater reliance than ever before on integrating CPSC databases and accessing other agencies' databases in a seamless fashion.

As you can see, the expenditures for laboratory facilities and IT infrastructure are critical capital investments that must be made to accommodate current and expected future growth of the agency.

An important part of our mission is educating the public about safety issues. This committee, and in particular, Representative

Wasserman Schultz has had a special interest in water safety. Building on past activities we have underway a focused effort to educate the public on the dangers of drowning as directed by the recently passed Virginia Graeme Baker Pool and Spa Safety Act.

Before concluding my testimony, I should note that the House and the Senate have passed different versions of reauthorization legislation for the CPSC. The CPSC's fiscal year 2009 budget does not include funding increases in the event that Congress finalizes its legislation and the President signs it. Since it is clear that the final legislation will impose new regulatory, enforcement and other mandates on the CPSC, we will, of course, be in further contact with you and your staff in that regard at the appropriate time.

In conclusion, the CPSC is an agency that is undergoing change like no other agency in the government. As we make the transitions that will accompany this change, I look forward to continuing to work closely with the committee and welcome the opportunity to answer your questions about our budget. Thank you.

Mr. SERRANO. Thank you.

[The information follows:]



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**TESTIMONY OF THE HONORABLE NANCY A. NORD
ACTING CHAIRMAN
U.S. CONSUMER PRODUCT SAFETY COMMISSION**

**SUBCOMMITTEE ON FINANCIAL SERVICES AND GENERAL GOVERNMENT
HOUSE COMMITTEE ON APPROPRIATIONS**

MARCH 11, 2008

Thank you for this opportunity to present to you the appropriation request for the U.S. Consumer Product Safety Commission (CPSC) for fiscal year 2009. As the Committee members know, the CPSC is a small, independent and bipartisan agency created by Congress to protect the public from unreasonable risks of injury and death associated with more than 15,000 types of consumer products.

The Committee members also know well that, since we last met a year ago, the CPSC has been very much in the media spotlight. I am pleased that this national attention has greatly raised public awareness of the agency's safety mission and our services and that it has also sharpened industry awareness, both here and abroad, of their requirements under the laws that the CPSC enforces. Those laws include the Consumer Product Safety Act, the Federal Hazardous Substances Act, the Refrigerator Safety Act, the Flammable Fabrics Act and the Poison Prevention Packaging Act.

In testimony before Congress last year, I noted that "if you give me more resources, I will put them to good use." Last December, the appropriations committees did just that and significantly increased CPSC's budget in fiscal year 2008 by over 27 percent, and I am proud to report to the Committee today that we are putting these new funds to very good use. I will discuss those expenditures in more detail later in my testimony, but it is important to note that this funding is helping us lay the necessary groundwork for the agency's expanded initiatives that are presented in the agency's fiscal year 2009 budget request.

For fiscal year 2009, the CPSC is requesting \$80 million to carry out our various safety missions for America's families. This is an almost \$17 million increase over our requested funding level for fiscal year 2008 and matches the Committee's final appropriation for the Commission which was approved by Congress this past December. With these fiscal year 2008 and 2009 funds, the CPSC will be able to complete the modernization of our testing laboratory, begin to overhaul our information technology infrastructure, fund our Import Safety Initiative, expand our new Early Warning System, and hire more technical and support staff.

Since the CPSC's inception in 1973, the agency's work has contributed substantially to the decline in the rate of deaths and injuries related to hazardous consumer products. Examples include an 83 percent reduction in children's poisoning deaths, an 84 percent reduction in crib-related deaths, and an 88 percent reduction in baby walker injuries. Significant progress has also been made in reducing deaths and injuries from electrocutions, residential fires and carbon monoxide poisoning, and from many other household hazards.

While the American home environment has never been safer, the American marketplace is dynamic, and there is always more work to be done and new challenges to be met. Perhaps the greatest of these is the import safety challenge. Most of the consumer products that we use today are no longer manufactured in the United States. For example, over 85 percent of toys and 59 percent of electrical products are manufactured in other countries, notably in China. The number of products imported into the United States showed a 200 percent increase from 1997 to 2006.

The Commission has taken aggressive steps to meet this challenge. To provide a comprehensive and coordinated effort to ensure greater import compliance with recognized American safety standards, the Commission created the Office of International Programs. Through this Office we have established formal working groups and action plans with the Chinese government. These working groups are focused on four key product areas: toys, electrical products, fireworks and lighters.

At last autumn's U.S.-Sino Product Safety Summit, sponsored by the CPSC, significant agreements were signed with our Chinese counterpart agency to build on earlier agreements and strengthen these working groups. China has pledged to increase pre-export inspections, improve compliance with mandatory and consensus standards, and crack down on repeat violators of U.S. safety standards. While we have already begun to see positive results from these agreements, we recognize that China is a huge country with thousands of manufacturing facilities and that implementation of these agreements cannot be accomplished overnight.

To maximize Chinese industry compliance with U.S. product safety requirements, it is essential to convey to them a full understanding of U.S. regulatory requirements. Summary provisions of nearly 300 U.S. mandatory and consensus consumer product safety standards are now available in Chinese. We are posting timely information briefs on our website in Chinese, and our plans include links to full Chinese texts and audio-visual products. The agency is also participating in industry-specific safety seminars and retail and vendor training seminars on-site in China.

CPSC's Office of Compliance has been aggressive in enforcing our consumer product safety laws, and this has resulted in a record number of recalls of hazardous imported products in 2007. I welcome the media coverage that these recalls have generated because we want industry, consumers and foreign governments to know that the CPSC is on the beat and will not tolerate violations of our consumer product safety laws.

I believe that this combination of strong enforcement, enhanced communications, and proactive training and education are the keys to success in meeting the challenge of imported product safety. The new funding provided by the Committee in fiscal year 2008 and requested by the CPSC for fiscal year 2009 will advance our efforts in this regard, and I would like to discuss these budgets now in more detail.

As directed by the House and Senate Appropriations Committees, the CPSC is spending our fiscal year 2008 funding on increased staff, workspace, and information technology resources. New staff is being hired in the areas of hazard identification and reduction, as well as in compliance and field operations, per the committees' direction. CPSC's number of actual FTEs at the start of 2008 was under 400; our aggressive goal is to increase that number to 444 by October 1, 2008 – an increase of over 50 new employees.

The agency will be able to expand its monitoring of products, and especially children's products, with the skills of these new employees who will be working at CPSC's headquarters, at our laboratory, in the field, and specifically – for the first time – at some of the nation's largest ports-of-entry as part of our Import Safety Initiative.

Our new Import Surveillance Division is designed to be the front line of defense working to prevent dangerous toys and other hazardous products from entering the country. These employees will be specialists trained specifically in import surveillance procedures and will work closely with other government agencies and

with CPSC's compliance officers, technical staff, attorneys, and laboratory personnel. CPSC's new port investigators will track cargo and, with Customs' officials, stop and inspect suspect shipments. High impact ports will be targeted and new measures of import compliance will be established to better assess progress.

As you know, and as your committee staff has witnessed first-hand, CPSC's testing laboratory needs to be modernized to create efficiencies and to better support CPSC's product safety work, including the new work generated by the Import Safety Initiative. As presently configured, the laboratory space is inefficient to say the least, though our staff there do an incredible job with the tools that they have at hand.

While the Committee had expected modernization of CPSC's laboratory to begin in fiscal year 2009, I am pleased to report that opportunities to begin this project in fiscal year 2008 arose because of the new funding and recently completed work by the General Services Administration (GSA). Since the laboratory addresses critical workspace issues for a growing staff, the Commission decided to go forward with site selection and make a substantial payment to GSA of \$8 million in fiscal year 2008 so that we can move into the new laboratory a year earlier than otherwise expected. An additional payment of \$6 million is requested in CPSC's fiscal year 2009 budget proposal to complete the laboratory project.

A new laboratory location will provide not only a modern facility for our engineers and scientists to conduct their testing and investigations but also office space for an additional 70 employees to be relocated from CPSC's headquarters office. These employees will be those who work closely with the laboratory staff. This action will allow further efficiencies and improvements in office space at our headquarters site.

Per the committees' interest, the agency is also spending new funding on important improvements to our information technology (IT) infrastructure. The need for increased funding for IT has been a constant in CPSC's budget proposals over the years. Our IT systems have not been fully modernized since 1993 when the agency last relocated its headquarters.

Achieving the agency mission is dependent on our IT systems because our work requires electronic accessibility of information to maintain productivity. The increased emphasis on import safety demands greater reliance than ever before on integrating CPSC databases and accessing other agencies' databases, such as those of U.S. Customs and Border Protection, in a seamless fashion.

With new funding in fiscal year 2008, the CPSC has permanently established a long-sought capital fund to replace aging and outdated IT equipment on a systematic basis and a fund to support development of more advanced electronic applications. Additionally, a one-time expenditure of \$2.3 million is allowing the agency to replace its resource management information system which is so outmoded that vendor support is being withdrawn.

Funding in fiscal year 2009 will continue this modernization effort and include converting our current data systems from a client-server environment to a web-based environment; full integration of the Document Management System (DMS); updating current, outdated database platforms to one, mainstream platform; and converting current, disparate data systems to one data system.

These IT improvements are also essential to the agency's Import Safety Initiative. Improved electronic data exchanges with Customs' databases in the future will enhance the government's capabilities to identify, track and stop hazardous products from entering the United States. In fact, we will be able to access shipment data before the ships leave their foreign ports. Additionally, a new system that can track historical changes of addresses and "names" for foreign companies will provide for more rapid identification of hazardous imported products. The new system will also integrate several third party sources of information that will yield improved monitoring. Finally, it will potentially give us, for the first time, an effective tool to flag and guard against foreign suppliers who repeatedly ignore our product safety requirements.

The new IT improvements will also support our new Early Warning System (EWS) which I initiated last year to enhance our current hazard identification systems. The goal of the EWS is to systematically identify and respond to children's product safety hazards starting with cribs, bassinets and playpens. This initiative is important because it is designed to address emerging hazards more quickly and effectively. Through an enhanced identification system, the agency will be able more promptly to detect product hazard patterns as they emerge.

As you can see, the expenditures for laboratory facilities and IT infrastructure are critical capital investments that must be made now to accommodate current and expected future growth of the agency. The new funding provided by the Committee in fiscal year 2008 and requested by the CPSC for fiscal year 2009 will result in an agency with the tools and the strong foundation that it needs to perform its safety mission efficiently and effectively.

While I have discussed CPSC's new systems, programs and infrastructure at length, it is important to also recognize the critical ongoing work of the agency in standards setting, domestic enforcement and public education.

While the Commission was without a quorum for the better part of 2007, I am pleased to report that the agency was able to make progress on a number of fronts. As a result of last year's staff work, the Commission was able to vote earlier this year, before the quorum again expired, on a final rule to update our clothing textile flammability standard and on a notice of proposed rulemaking on upholstered furniture flammability.

Additionally, the Commission completed a great amount of work to reduce carbon monoxide (CO) poisonings. First, the Commission issued a mandatory rule last year for a new danger label for portable generators to warn consumers about CO poisoning and to encourage safe use. The regulation became effective on May 14, 2007, for all portable generators manufactured or imported after that date.

Second, the Commission issued an advance notice of proposed rulemaking in December 2006 to initiate a multi-faceted rulemaking effort that includes reducing consumer exposure to CO through technical means and performance standards that will enable and encourage proper generator placement outdoors.

Third, CPSC staff has an interagency agreement with the National Institute of Standards and Technology (NIST) to conduct physical testing and indoor air quality modeling of in-home CO infiltration with a generator running in an attached garage. The results of these investigations will help determine practical and effective performance requirements for portable generators and provide the basis for subsequent rulemaking activity.

As noted earlier, the Office of Compliance's aggressive enforcement resulted in a record number of product recalls. Perhaps as a result of increased media attention on product safety, a record number of reports from manufacturers informing the agency of possible product defects were also received in 2007. Those reports are required by Section 15 of the Consumer Product Safety Act. The Compliance staff also conducted follow-up work on CPSC's new mandatory mattress flammability regulation that took effect last year.

CPSC's Office of Public Affairs was active in 2007 in educating the public and informing consumers of recalls and emerging hazards. That Office issued more than 350 press releases on product recalls and safety information and completed more than 20 safety campaigns on such topics as all-terrain vehicles; mattress safety; stove, television and furniture tipovers; portable generator dangers; and

outdoor and indoor drowning prevention. American consumers viewed safety information announced by the CPSC more than a half billion times through television interviews, video news releases, free publications, and the Neighborhood Safety Network.

I am especially proud of that Office's work on outreach to the Spanish-speaking community, and I greatly enjoyed the opportunity to be with Chairman Serrano in his Bronx district just yesterday encouraging community leaders to join our Neighborhood Safety Network. In 2007, we translated the Neighborhood Safety Network Toolkit into Spanish, as well as several publications and three times the number of press releases as in the previous year. The CPSC coordinated a Lead Poisoning Prevention Web site in cooperation with other federal agencies and the National Council of La Raza.

Before concluding my testimony, I would be remiss if I did not make note of the passage in December of the Virginia Graeme Baker Pool and Spa Safety Act, which was sponsored by Committee member, Congresswoman Wasserman-Schultz. CPSC staff has met with the Congresswoman's staff to discuss the education component of this Act, which we have already set in motion, and I commend her leadership in bringing public attention to this terrible tragedy of pool and spa drowning and entrapment.

Additionally, I should note that the House and the Senate have passed different versions of reauthorization legislation for the CPSC. CPSC's fiscal year 2009 budget request does not include funding increases in the event that Congress finalizes this legislation and the President signs it. Since it is clear that the final legislation would impose new regulatory, enforcement and other mandates on the CPSC, we will, of course, be in further contact with the appropriations committees in that regard at the appropriate time.

The CPSC is an agency that is undergoing change, like no other agency of government, with significant budget increases, comprehensive reauthorization, and national attention unlike ever before in its history. As we make the transitions that accompany this change, I look forward to continuing to work closely with the Committee. Our common goal is to assure the safety of the products that American families bring into their homes and into their recreation areas. I have been honored to serve as Acting Chairman of the Consumer Product Safety Commission at this time of great challenge and great opportunity to serve the American public, and I look forward to answering your questions.

Thank you.

Mr. SERRANO. Mr. Moore.

COMMISSIONER MOORE'S TESTIMONY

Mr. MOORE. Thank you. Mr. Chairman, Ranking Member and members of the subcommittee. Thank you for providing me this opportunity to present testimony before you today on the U.S. Consumer Product Safety Commission's fiscal year 2009 appropriations request. For our current fiscal year, 2008, Congress, lead by this subcommittee, took up the cause of the American consumer by focusing on, and addressing, the serious deficiencies at the Commission resulting from our most recent years of shrinking resources. Our agency was appropriated \$80 million, a \$16.75 million increase over the administration's request. For fiscal year 2009, the President's funding request for the agency is \$80 million, which is equal to the level of funding provided by Congress for fiscal year 2008. With this amount of funding, we propose to hire up to a level of 444 full-time employees.

Additionally, we propose to continue our efforts to acquire a modern state-of-the-art laboratory facility and to acquire additional office space which we will need to accommodate some of our new hires.

The fiscal year 2009 request, on its face, is a request from level funding from 2008. Level funding, because of recurring annual increases for staff salaries and rent, is ordinarily a cut for us, and I would not be before you in support of a de facto cut in agency funding at this crucial time. However, there are a number of one-time expenses occurring in 2008 that are not anticipated in 2009. Not having those expenses in 2009 allows the Commission to direct 2009 resources towards activities which would give indications of growth as opposed to stagnation or movement in a negative direction.

Given the timing of our appropriations for 2008 and our concentration on hiring qualified people to fill our crucial vacancies, our fiscal year 2009 budget request approach makes sense to me at this moment. Most important to me is our now present ability to rebuild our staff. CPSC is a staff-intensive organization, at the heart of CPSC's organization is its staff, without question, our greatest and most important asset. Over time, we hope to be able to hire and train capable replacements, but the level of experience in crucial areas where we lost personnel will take years to recover.

However, I am very optimistic and pleased that we can now move in a positive direction with respect to our staffing issues and therefore on product safety. In addition to Congress' focus on Commission appropriations issues, both Chambers, the House and the Senate, have passed reauthorization legislation. Both bills provide significant increases in our authorization levels for future years at the Commission. The authorization levels reflect my own views on how growth should be contemplated for the Commission. And I am hoping that future appropriations will be in line with the Senate and House final agreed-upon authorization levels.

The bills would also require the Commission to undertake a number of activities that I am not taking into consideration as I present this statement. I cannot say at this time what resources we would need to fully implement any new requirements. When a final

package is agreed upon and signed into law, we certainly intend to communicate with this subcommittee with respect to any future requirements and their effect on Commission resources.

Mr. Chairman, I want to thank this subcommittee for your recognition of the importance of our agency with respect to product safety for American consumers, the sale of unsafe consumer products remains a major national problem. Because of your attention and assistance, we are now on the way back to firm footing in preventing unsafe, potentially harmful, consumer products from causing deaths and injuries to American consumers. The continuous support of this subcommittee is essential to a successful fulfillment of our mission. I thank you again and I am now available to respond to questions you may have. Thank you.

Mr. SERRANO. Thank you.

[The information follows:]



**U.S. CONSUMER PRODUCT SAFETY COMMISSION
STATEMENT OF COMMISSIONER THOMAS H. MOORE**

Submitted to the

Subcommittee on Financial Services and General Government

House Committee on Appropriations

Hearing date – March 11, 2008

Mr. Chairman, Ranking Member, and Members of the Subcommittee, thank you for providing me with this opportunity to provide testimony before you today on the U. S. Consumer Product Safety Commission's (CPSC) Fiscal Year (FY) 2009 appropriations request.

In summary, for FY 2009, the President's funding request for the agency is \$80,000,000 which is equal to the level of funding provided by Congress for FY 2008. With this level of funding, we propose to hire up to a level of 444 FTEs (Full Time Equivalents) from our present on board level of approximately 380 FTEs. Additionally, we propose to continue our efforts to acquire a modern laboratory facility and to acquire additional office space, which we will need to accommodate some of our new hires.

IMPACT OF FY 2008 FUNDING

In order to fully understand our FY 2009 request we must first look at what is transpiring for us in FY 2008. In FY 2008, the Administration's budget contemplated funding the Commission at \$63,250,000 which would have resulted in an all-time low funded staffing level of 401 FTEs; a decrease of 19 FTEs from

the FY 2007 funded level. As I indicated in my statement to this Subcommittee last year, such a funding level would have had a devastating effect on the agency's ability to maintain the broad range of skilled staff we need to address the full scope of the 15,000 types of consumer products under our jurisdiction. Congress, led by this Subcommittee, took up the cause of the American consumer by focusing on, and addressing, the serious deficiencies at the Commission resulting from our most recent years of shrinking resources by appropriating \$80.0 M, a \$16.75 M increase over the Administration's request.

With the additional resources, the Commission has been able to start the process of reversing the effects of the Commission's downward spiral in staffing. The Commission is now able to begin filling critical vacancies, moving our staff level in the positive direction toward 420 FTEs. We have also started a process to reacquire headquarter office space that we forfeited in order to reduce our operating cost.

An Import Safety Initiative has been implemented with the creation of a new Import Surveillance Division in the Office of Compliance and Field Operations. For the first time, CPSC will have permanent, full-time product safety investigators at key ports of entry throughout the United States. At present, we have identified up to ten ports where we will assign personnel.

We are also implementing an Early Warning System (EWS) Initiative which is designed to identify emerging product safety hazard patterns more quickly and effectively in children's products such as cribs, bassinets and play yards (playpens). FY 2008 funding will allow staff to continue to develop and implement processes and procedures to evaluate and characterize hazard scenarios and failure modes which should alert the Commission staff that a product hazard may exist and quick action to address it must ensue.

The additional resources for FY 08 will also allow the Commission to expedite the acquisition of a new state-of-the-art laboratory facility and equipment. We will commit \$8M of FY 2008 funding toward this effort. The Commission is moving in the direction of acquiring a new facility as opposed to modernizing the present laboratory site, based on current projections that acquiring a new facility would be a more cost effective, more expeditious, and more efficient process for the Commission than rehabilitating the present laboratory site.

We are also able, for the first time, to establish in our base funding, a capital fund to replace aging and outdated Information Technology (IT) equipment and we are able to dedicate funds to further the process of developing more advanced electronic applications for our IT system. These advanced electronic applications will be essential to the Commission's Import Safety initiative and EWS initiative as well as an important element to converting our current, disparate database systems to a one stop data acquisition system. Moreover, we are able to replace our outmoded resource management information system, for which vendor support was withdrawn due to the age of the system.

The FY 2008 increase will additionally provide for other important product safety related activities such as a modest increase in our contract funds for our rulemaking, research, and project support. And, because we need to be able to compete with other governmental agencies and the private sector for qualified candidates to fill our vacancies, an increase in funds for our staff training and staff performance incentives.

Most important to me is our now present ability to rebuild our staff. CPSC is a staff intensive organization. At the heart of CPSC's operation is its staff, without question, our greatest and most important asset. Over the last few years, because we were compelled to achieve staff reductions through non-targeted means such as attrition, early-outs and buy-outs, we lost some very key staffers. For instance, just to name a few, we have lost our key experts in these areas:

- *Poison Prevention,*
- *Chemical hazards as they relate to the Federal Hazardous Substances Act,*
- *Compliance of toys,*
- *Drowning prevention,*
- *Emerging hazards,*
- *Fire-related hazards, and*
- *Legal knowledge of CPSC's regulatory process.*

Over time we hope to be able to hire and train capable replacements, but the experience in these areas that we have lost will take years to recover. In addition, dwindling resources, negative publicity in the media, and staff reductions had some negative impact on our agency's ability to attract high level qualified candidates for our critical vacancies as well as our ability to retain some of our own top level employees. I am very optimistic that now, with the change in

attitude about the Commission's importance that has manifested itself in our increased funding levels, we will be able to reverse the negative perceptions about the Commission and move in a positive direction on our staffing issues and, therefore, on product safety.

CPSC'S IMPORTANT SAFETY WORK WILL NOW CONTINUE

By most measures, CPSC provides both tremendous service and tremendous value to the American people and we are very proud of our staff's accomplishments. Our agency is the major factor in the substantial decline in the rate of deaths and injuries related to consumer products since 1974. During that time, through our standards work, compliance efforts, industry partnerships, and consumer information, there has been a 43% reduction in residential fire deaths, a 74% reduction in consumer product-related electrocutions, a 41% reduction in consumer product-related carbon monoxide deaths, an 83% reduction in poisoning deaths of children younger than 5 years of age, an 88% reduction in baby walker injuries and an 84% reduction in crib-related deaths.

The FY 2009 request, on its face, is a request for level funding from FY 2008. Level funding, because of recurring annual increases for current services, is ordinarily a cut and I would not support a de facto cut in agency funding at this crucial time. However, there are a number of one-time expenses occurring in FY 08 that are not anticipated in FY 09. Not having those expenses in FY 09, the Commission can target resources towards meeting recurring annual increases such as salaries and rent, funding anticipated compensation and operating expenses for additional hires, and funding continued acquisition efforts for our laboratory facility.

We at the Commission strongly feel that many, many deaths and injuries have been prevented as a result of the heightened attention given to safety issues by manufacturers and consumers due to CPSC's leadership. However, we are very mindful that the product safety landscape is ever evolving because of more technologically complex products as well as an ever growing emphasis on imports. Last year's heightened activities with respect to imported toys, in particular, clearly illustrate the benefits of a strong CPSC federal presence in today's consumer product marketplace and therefore provide substantial justification for present and future funding to keep our safety programs intact.

CONCLUSION

In addition to Congress' focus on Commission appropriations issues, both chambers, the House and the Senate, have passed reauthorization legislation. Both bills provide significant increases in our authorization levels for future years at the Commission. The authorization levels reflect my own views on how growth should be contemplated for the Commission, and I am hoping that future appropriations will be in line with the House and Senate final agreed upon authorization levels.

In addition to the authorization levels, the bills would also require the Commission to undertake a number of activities that I am not taking into consideration as I present this statement. The final legislative package will most certainly contain some significant new regulatory, enforcement and other mandates that could have some affect on what resources we would need to fully implement all of the requirements. When a final determination is made, we certainly intend to communicate with this subcommittee with respect to future requirements and their affect on Commission resources.

Mr. Chairman, I want to thank this subcommittee for your recognition of the importance of our agency with respect to product safety for American consumers. The sale of unsafe consumer products remains a major national problem. Because of your attention and assistance, we are now on the way back to firm footing in preventing unsafe, potentially harmful consumer products from causing deaths and injuries to American consumers. The continued support of this Subcommittee is essential to a successful fulfillment of our mission.

REAUTHORIZATION BILL

Mr. SERRANO. Both of you have commented on the fact that it will be difficult at this point to begin to speculate on how much funding you will need, based on the fact we have not seen the final reauthorization bill signed into law. Notwithstanding that point, what are your views on the House and Senate versions of the reauthorization bill and what are the different elements of the House and Senate bills that will better enable the Commission to safeguard consumers?

Ms. NORD. I think that reauthorization of the Consumer Product Safety Commission is long overdue. Congress had not taken a thorough look at our agency and our statutes for 18 years, and they clearly need to be modernized. Back in July of last year, I sent up to the Congress a proposal that made 41 specific recommendations for changes in our statutes, and I am pleased that both bills include many of the things that I had asked for. I think cutting through to perhaps the most important thing that the Congress can do is give us certification authority across all our statutes.

If you have manufacturers certify that they are in compliance with applicable safety standards, that forces an examination of those standards, it forces an examination of manufacturing processes. I think that that, in and of itself, goes a long way towards dealing with the issue of unsafe imports. There are a number of other very, very helpful provisions in both pieces of legislation, for example, making it illegal to sell recalled products. Most people think that that is already the state of the law, but it isn't. And so that is a very helpful example of something in the legislation as well.

Mr. SERRANO. Commissioner Moore? On the same question, you spoke about the inability to decide at this point how much money you would need to implement the provisions of the bill, but are there any thoughts you have on the bills as any stand now in the Senate and the House?

Mr. MOORE. I would have to review it in that light, but right now the reauthorization process has been very successful as far as I am concerned and the amount of funding is going to be beneficial and help us to move forward. And I think that is what we are looking forward to.

SALE OF RECALLED PRODUCTS

Mr. SERRANO. Let me ask you something, you just mentioned that there are recall items that are resold or that are sold.

Ms. NORD. Yes.

Mr. SERRANO. Who sells them?

Mr. MOORE. That is a good one.

Ms. NORD. Many people. The—

Mr. SERRANO. Not the person that originally sold it, right?

Ms. NORD. No.

Mr. SERRANO. Or was scheduled to sell it?

Ms. NORD. No, what happens is when something is recalled, the retailers stop sale and they remove it from store shelves, but the challenge we have is to make sure one, that consumers become aware of the recall and what they should do about it; and two, that

other products sellers, the Internet sales, the smaller stores, the dollar stores, secondhand stores also are aware of the recalls.

That is one of the reasons that we put in place a program that we are calling Drive to One Million which allows people to sign up to get recall notices sent directly to their E-mail in-boxes.

Mr. SERRANO. I signed up yesterday.

Ms. NORD. I appreciate that. I encourage all members of the subcommittee to sign up and inform their constituents about this as well. That is an example of one way to talk to consumers directly about this issue.

Mr. SERRANO. Incidentally, one of the things I would say at the end of the day, but I will say it now because I did sign up for this yesterday in English and Spanish, is that your agency, for I think some good reasons, and perhaps some that are still to be reviewed, has taken some heavy hits over the last few months, if not the last year. And we are all going to work hard to make sure that you do the job you are supposed to do, and I know that from some of the things you are talking about, the Commission wants to do the job that it is supposed to do.

One of the things you could do is use us as allies in this fight. The more information you give us, the more information we can share with our constituents. There should be links of all kinds on our Web sites to allow us to put forth this information. On that particular one, I commend you on the fact that the information will be coming in Spanish and in English—I am sorry, in English and in Spanish, I don't want any trouble to my left, not to my political left, of course, but to my left, and that is a good thing.

PUBLIC COMPLAINT DATABASE

One of the more controversial issues in the reauthorization is a proposal to establish a public complaint database that would better enable consumers, government agencies, health care workers and others to report on unsafe products. This seems to me to be a good idea to give the public an opportunity to learn about potentially awful products sooner than that we do now. This increases information and transparency, and I believe that is beneficial. My understanding is that the Bush administration opposes establishing this database.

Ms. Nord, you have been quoted as saying the database would be of questionable, if not detrimental, impact on consumers. What are your concerns about creating this database, and what is the fear that we have? Is it that folks will be able to share information ahead of the officials, if you will, finding out that something is wrong with a product?

Ms. NORD. Well, I am certainly all for making sure that consumers have information they need to make good choices. And in that regard, sir, the CPSC is one of the most transparent agencies in the Federal Government. If you would go to our Web site, you would be amazed by the amount of information you can find there about product safety issues.

My concern about the database is multifaceted. The agency gets into it a tremendous amount of information, probably half a million different pieces of information, that would be categorized as complaints or other kinds of information that would be qualified to go

up on this database as it is described in the Senate bill. Much of that information is inaccurate, much of it is wrong. You end up with wrong model numbers, you end up with wrong manufacturers. So we do have a concern about putting that kind of information up on a database which may mislead consumers.

The cure, of course, is to vet the information and have the CPSC staff go through and make sure it is accurate. That is not required or requested in the Senate bill, but it seems to me it is almost a public obligation that we would have to do that to make sure that consumers aren't misled, and that would be a tremendous drain on our resources.

My other concern about it is that this is going to be a very, very expensive undertaking for our agency; again, based on how information comes into the agency and what we would have to do with that information to get it up on line and searchable as described in the Senate bill.

Our budget people have told me that we are looking at upwards of \$20 million to set up the database. They are looking at a \$3- to \$4 million a year maintenance obligation.

Mr. SERRANO. How much?

Ms. NORD. \$3 to 4 million. And for an agency with an \$80 million budget, that is a tremendous amount of resources. So if you are going to take a large part of our budget and send it to maintaining this database, I would really, really ask you to be very sure that it is going to be a value to consumers in the way that it is contemplated, and I have some grave doubts.

Mr. SERRANO. I understand. I just want to remind you though that the authorization speaks about the possibility of a \$100 million allocation. Of course we would have to come up with that.

U.S. TERRITORIES AND THE POOL AND SPA SAFETY BILL

Before I turn to Mr. Regula, in anticipation of questions or discussion with Ms. Wasserman Schultz, let me just ask, her pool and spa bill, which we supported, did not, in classic congressional form, nothing personal, did not include the territories. Would you be supportive of making sure that the reauthorization, as is the desire of this chairman, is expanded to the territories? Around here, as you know, every time we legislate, unless you include the territories, they are excluded.

Would you have any problems with including the territories in the pool and spa bill? After all some of those tropical places have more pools than we think. Guam, Samoa, Virgin Islands, Puerto Rico, they have something in common.

Ms. NORD. Of course, I would support that.

Mr. SERRANO. Mr. Regula.

FOREIGN MANUFACTURERS

Mr. REGULA. Seems to me your big problems is enforcement. Am I correct you have more tools with the U.S. manufacturer than you do with an importer; is that correct?

Ms. NORD. Well, our statute makes the product seller responsible for the safety of the product they sell and this is defined as the retailers, the distributors, importers and manufacturers, it goes all the way down—

Mr. REGULA. Shouldn't it be the manufacturer?

Ms. NORD. Well, the statute, since the beginning, has made clear that everyone in the chain of distribution has responsibility for safety. Now the issue of course with this new world that we find ourselves in with much of our product being manufactured abroad is we don't have the ability to reach the foreign manufacturer so therefore we do look at the importer, distributor and retailer.

REGULATING IMPORTS FROM CHINA

Mr. REGULA. It seems to me a case of everybody's business is nobody's business, so you have all the people in the chain and they point to somebody else, but there has to be finality as to where that responsibility lies. Do the Chinese, which of course is subject to their goods, probably get most of the recalls? Is there any internal regulatory structure in China to govern what they send out in terms of health and safety?

Ms. NORD. The Chinese tell us that there is. That is an excellent and really profound question, Congressman. We have regular conversation with our counterpart agency in China. They tell us that they do inspect factories, they tell us they have pulled hundreds of export licenses, they tell us that an export license is not granted unless the factory can certify that the products they make, if they are intended for export, meet the foreign country's requirements. And while we are pleased to hear that, obviously we trust but verify in capital letters here.

We have done a number of things to address this issue. We had a rather, actually I think, historic meeting last September with our counterpart agency from China where we signed agreements with them to do specific quality control procedures in four different product areas, toys, electrical products, fireworks and cigarette lighters. The Chinese also agreed to put in place a program to assure that lead paint was not used in toys for export. The challenge we have now is to make sure that we can hold them to those agreements. And the challenge they have is that they really do need to just undertake a systemic change in their manufacturing.

Mr. REGULA. They must ship a lot of their materials to the European market. Do they get the same kind of pressure from the European counterparts of your agency for products coming into the European market?

Ms. NORD. Yes, they certainly do and the Europeans are as concerned as we are about these issues. But frankly, the United States is the leader in product safety in the world so we are taking a lead here. Now, I have had discussions with my counterpart in Europe about the problem that we both face with respect to China. In fact, at the end of this month, I am going to be testifying before the European parliament on these issues, and we will be having ongoing conversations. So it is something that we need—the rest of the world needs to speak with one voice and we are trying to do that.

U.S. MANUFACTURED GOODS

Mr. REGULA. It seems to me that the U.S. producers would be at somewhat of a disadvantage, because I assume that the safety laws and rules of toys and goods manufactured in the United States are perhaps enforced more strictly than those for similar merchandise

coming from imports. And as a follow-up to that, is there any indication that manufacturing on toys and so on might be moving back to the United States, because if I were buying a toy, I would feel a little more comfortable if it were made in the U.S. versus an import?

Ms. NORD. I think I would put it a little differently in that U.S. manufacturers are well aware of their product safety responsibilities. They know that if they are going to sell a product in the United States, there are certain obligations they have.

Mr. REGULA. Right.

Ms. NORD. And that is something that they have been familiar with since the agency was set up 35 years ago. There is not that same sort of sense of responsibility amongst foreign manufacturers.

Mr. REGULA. So I would be more comfortable buying a similar toy made in the U.S. versus the import as far as safety and health?

Ms. NORD. The U.S. manufacturer has been working with the Consumer Product Safety Commission for many years and understands their obligation. The challenge we have now is to make sure that products manufactured abroad and are imported into this country meet the same standards and that is the challenge that we have.

INSPECTION OF IMPORTED GOODS

Mr. REGULA. Do you have the tools to do that?

Ms. NORD. We are working to develop the tools. The budget that we put forth, both of us——

Mr. MOORE. Yes.

Ms. NORD [continuing]. Unanimously starts to build those tools. We have, for example, created an import safety surveillance division. So for the first time we will have CPSC full-time presence at our largest ports. We have been developing a very good, strong relationship with Customs and Border Protection. One thing you should be aware of is under our statutes Customs has the ultimate responsibility to stop and seize shipments. And so we are working very closely with them to make sure that they understand our procedures and criteria. We, they and I, think that relationship is developing in a very, very helpful way.

Mr. REGULA. Commissioner Moore, what would be your observation on somewhat of a double standard, if you will, of what is made in the U.S. versus what is imported? And should I as a consumer be as comfortable buying the imported product as I could buying the U.S. product?

Mr. MOORE. Well, apparently what we are looking at now is where are the imported product coming from? And increasingly, of course, they are coming from China. I think something like 40 percent or more are coming from China. A number of issues have been raised with their products, but I think we ought to look more closely and lean more heavily on the retailers, because the bottom line is who is selling it.

Mr. REGULA. But how could a retailer know whether there is lead in the paint or whether there is a danger with this toy.

Mr. MOORE. They can come to us and try to find out, particularly since that issue has been raised so blatantly. They can come to us if they need to. We are looking to, for instance, putting in the mar-

ketplace independent research laboratories that they can take their products to, the retailers, if they want to and have them examined and certified. We would like the retailers to take a stronger step in that area. They know the problems, so why ignore it?

Mr. REGULA. I yield for the time being.

Mr. SERRANO. Gentlewoman from Florida.

Ms. WASSERMAN SCHULTZ. Thank you, Mr. Chairman. Mr. Chairman, given that I am only in my second term, I will hang the oversight of not having the territories included in the pool safety law on my inexperience. And I appreciate you pointing out that they absolutely should have been included, especially since like my home State, they are all warm weather States, which, I am sure, have a percentage of their population a drowning problem when it comes to young children. So I hope we can find a vehicle that we can add an amendment to so that we can make sure that the law applies to the territories. So thank you very much.

Mr. SERRANO. It is a 110-year-old problem.

Ms. WASSERMAN SCHULTZ. I know, and one I won't make the mistake of again, I can assure you.

POOL AND SPA SAFETY LAW IMPLEMENTATION

Ms. Nord, I wanted to talk to you as you might imagine, about your plans for the implementation of the pool safety law. In your budget request, you have proposed flat funding for the agency and you have a new mandate in this pool safety law, which is not included in your request. And I am concerned about that, and so I am wondering, A, why did you not ask for the funding to implement the pool safety law, because I guess it would be pretty difficult for to you do it without the funding or at least fully? And if you could talk to the committee about what the Commission has been doing since the law passed to begin its implementation?

Ms. NORD. Thank you. First of all, I would like to begin by commending you and your staff, the Baker Family and Safe Kids Worldwide, for all the hard work that went into the passage of the Pool and Spa Safety Act. With respect to funding, it is my understanding that the Congress is going to be considering specific appropriation to implement that legislation and we would welcome that funding and work with you.

Ms. WASSERMAN SCHULTZ. I am certainly going to press for that, but I am wondering if the law—the law passed before you submitted your budget request, why didn't you submit—why didn't you include this in the budget request? The budget request was due in February and the law passed in December.

Ms. NORD. Well, it is our understanding that you all are contemplating a specific appropriation.

Ms. WASSERMAN SCHULTZ. I am wondering why not include a request to implement this bill and the funding for it in your budget request, why isn't it in there if you knew that you were going to have to implement it? Do you think you can implement within the resources of the agency?

Ms. NORD. No, we certainly can't do the grant program, and we certainly can't do, I believe, a \$5 million public affairs program within the budget that we have put out to you now. The Congress, it is my understanding, is contemplating specific appropriations.

Ms. WASSERMAN SCHULTZ. I know, that is the third time. We aren't, unless we add it to your request. Why did the Commission, knowing that the bill was law, not include a request for funding to implement the law?

Ms. NORD. Because it was our understanding that this committee was going to proceed on a separate track for that funding and indeed we would welcome that funding. Let me just be very clear that we would welcome that funding.

Ms. WASSERMAN SCHULTZ. I am glad to hear that it is just that usually we use your budget request as a guide; we take our queues from you on what your priorities are. I would think that a significant new mandate like this one as important as this, you would at least ask for us to do that instead of relying on the possibility of us doing that. I mean, it is not that we were not going to pursue that, we are going to pursue it because the chairman has graciously agreed to work with us on pursuing that, but it seems incumbent upon the Commission to have asked for the funding.

Ms. NORD. Well, we have been in close conversation with your office about this. It was our understanding that this would be pushed on a separate track and we have made it very clear that we would welcome that additional funding.

Ms. WASSERMAN SCHULTZ. It is just that there is no indication of that in the budget request so at least I am glad that you are indicating publicly that you are supportive of adding the funding to the budget.

There are several States, Florida, Nebraska, California and Tennessee that have been contacting my office interested in how to go about accessing the grant funds if and when they become available. So can you talk to us about the Commission's process for implementation, what you are doing with the education program and the grant program?

Ms. NORD. With respect to the grant program, as you know, the agency really does not have any history or mechanism for administering grants. Therefore, we have opened a conversation with the Centers for Disease Control which does have that administrative infrastructure. They are very, very supportive of this. They are eager to begin work and as soon as the grant money is appropriated, we will be continuing to move in that direction.

With respect to the public education aspect of the legislation, we are doing a number of things now even though we don't have funding that was contemplated in the legislation. For example, we have a staff guidance document that is now being developed, that is being put out for public comment which will discuss how manufacturers can comply with the requirements in the legislation. We have created a multi-disciplinary team within the agency that is developing a public affairs program that will reach out and take advantage of the other stakeholders who have a role and an interest in this. And we have been in contact with them and are working to develop a program there.

Ms. WASSERMAN SCHULTZ. In terms of the education program, how are you specifically planning to communicate to public pool owners and operators the drain cover mandate, which is the provision that requires that all pools be retrofitted with a drain cover or built from now on with a drain cover installed?

Ms. NORD. I mentioned we are developing guidance documents for pool owners, industry, and State agencies that describe the specific ways in which pools will need to meet the drain cover and the anti-entrapment device requirements of the legislation. With respect to the other aspects of this, we are launching a major education and media campaign. We are planning to reissue TV and radio public service announcements.

Ms. WASSERMAN SCHULTZ. Is that dependent on us providing the funding, or are you trying to that within existing resources?

Ms. NORD. We are——

Ms. WASSERMAN SCHULTZ. I appreciate the effort the Commission has been making, I know you have been working very hard in developing what you can within the resources that you have.

Ms. NORD. My concern here, of course, is that anything we do here we take from other things. And we have always seen water safety and drowning issues as one of our very important priority issues. So we have an ongoing program which we are implementing and we will continue to implement that. With the appropriated funds we will do more. We will enhance it and make it even more robust than it already is. I don't want you to think that we are doing nothing now, because we have a long tradition in this agency of working on this issue. With those very welcome appropriated funds, we will do more.

Ms. WASSERMAN SCHULTZ. I hope to welcome them with you. Thank you, Mr. Chairman.

Mr. SERRANO. We always welcome funds.

Mr. Regula and I have to figure it out, but then we welcome them. Mr. Kirk.

CHINA

Mr. KIRK. Thank you, Mr. Chairman. In July, Congressman Larson and I introduced bipartisan legislation to increase your powers, and fines, and staff and you worked well with Chairman Dingell because of our concern over China. You remember, as the Queen of England would call it, your annis horribilis, your bad year.

Ms. NORD. Not that bad.

Mr. KIRK. 100 brands of pet food recalled, poison toothpaste found in Arlington Heights, Illinois, that I represent, Thomas the Tank Engine in the RC2 toys.

In November, we went to my chairman here to urge a \$20 million increase for the Commission, and he was able to find 17 million and that was good. In the middle of that, 4.2 million Chinese Aqua Dots recalled after a 20-month-old infant was killed. I note the Senate bill increases your fiscal year authorization of a request of \$80 to \$88 million. And I do see just in the last week for China, we have on March 4th, gas connectors for space heater that would trigger a leak and fire recalled, hooded sweat shirts and drawstrings posing a strangulation hazard from China recalled; March 5th, infant rattles presenting a choking hazard recall; March 6th, Hamilton Beach toasters that catch on fire recall—that is just 1 week of Chinese products.

Now, Congressman Larson and I, we had a long discussion with our ambassador to Beijing, Sandy Rant, as you know, the U.S. em-

bassy there is about to be completed in time for the Olympic games. In the other subcommittee we have worked to keep our old embassy, as well as expanding the consulate in Wuhan, population, 13 million.

The question I have is you have announced plans to add 50 new employees to the Commission, who are you going to send on permanent assignment to Beijing?

Ms. NORD. Well, that individual has not been identified as yet, sir.

If I could digress for a moment—

Mr. SERRANO. A very lucky person.

Mr. KIRK. You are going to have permanent CPSC employees in Beijing.

Ms. NORD. At this point, that is not formally in our plans, because the commission has not voted on doing that. And this budget was sent up before the conversations that I know my staff has had with your office. To open an office overseas would be a very large thing for our agency. It would be something that the Commission needs to vote on.

Having said that, however, I, for one, would certainly welcome having some sort of CPSC presence in Asia. And we would again, I am speaking for myself because this is something the Commission has not voted on, I would welcome additional funding to have both a foreign national as well as an American citizen resident in our embassy in Beijing to act as our liaison in Asia. We have got to make sure that we don't look at this as only a China problem, because we are seeing more and more imports now coming in from other Asian countries, Vietnam is one that comes to mind. So having somebody on the ground would certainly be useful.

Mr. KIRK. I am just worried that we have really known about this problem since July and the Commission hasn't even come to a vote yet.

Ms. NORD. Well, we have known about the issue of imports for quite some time. This didn't come to anyone's attention just in July, other than the media. The media figured it out in July.

Mr. KIRK. Congressman Larson and I met with Sandy Rant, and then met with Deputy Mr. Wen of AQSIQ, your counterpart agency.

Ms. NORD. Yes.

Mr. KIRK. He described how his predecessor had been executed because of this problem.

Ms. NORD. Well, not quite.

Mr. KIRK. On the FDA side of their house. So this has been front and center. July, 8 months now. How long does it take to get a vote in the Commission? Does it take more than 8 months?

Mr. MOORE. Probably.

Mr. KIRK. Really? That would be stunning lethargy.

Ms. NORD. Well, not really, sir. We didn't have a quorum until August, and our quorum evaporated this past February, however, that is just a side piece. This agency has been working very, very hard to deal with this question. Starting in 2004 we negotiated a Memorandum of Understanding with China. We were the first agency, our tiny agency was the first. We had a safety summit in 2005. And then in 2007, we negotiated some very significant agree-

ments with the Chinese government. Again, our tiny agency was the first to do this.

Mr. KIRK. Hold on. Your tiny little agency, but in your testimony, you say 85 percent of the toys and 59 percent of the electrical products coming notably from China.

Ms. NORD. Sure.

Mr. KIRK. Your mandate is to protect the American people, and so if 85 percent of toys and 59 percent coming from China, it doesn't matter how tiny you are. You have got to deploy and protect us with the resources and then by adding 50 more people and not one identified for China yet.

Ms. NORD. Again, I, speaking for myself, would certainly like to have somebody in the embassy. We have started those conversations with the ambassador. We have also discussed with you and your staff some of the issues that come about because of having staff in China. If we receive funding from this committee to have staff in China, I, for one, would be very, very pleased with that result.

Mr. KIRK. When I brought it up to the chairman and said let us add \$20 million, part of it was we know it costs \$250,000 per year to deploy. So you already got \$17 million with a lot of us wanting you to deploy to China. And so we are already had the discussions with Ambassador Rant, he already sent a notice to Secretary Rice saying if CPSC identifies the person, we will house them immediately. So could I say, get the lead out of toys and hiring?

Mr. SERRANO. Ah, a pun.

Ms. NORD. It is detailed in my presentation, and as Commissioner Moore did as well, that \$17 million has been spent on additional staff at the ports, IT and our laboratory.

Mr. KIRK. 85 percent of toys and 59 percent of electrical products, so I would say you probably have a China issue here.

Ms. NORD. Again, it would be very helpful to have somebody there.

Mr. KIRK. Thank you, Mr. Chairman.

Mr. SERRANO. I could have sworn you asked for 16 in your letter and I was able to get 17.

Mr. KIRK. Appreciate all 17.

Mr. SERRANO. They are authorized to have three members and they have two, and they are both here. If we have a vote break, maybe they can have a vote while we are gone.

Ms. NORD. We have no quorum.

Mr. SERRANO. Just kidding, they had a heart attack in the back. Mr. Bonner.

CPSC AGENCY SIZE

Mr. BONNER. Thank you, Mr. Chairman. Madam Chair, could you tell us how teeny tiny your agency is in terms of the number of employees and how has it changed over the past number of years.

Ms. NORD. Our agency, like many agencies in government has gotten smaller. We currently have approximately 400 employees. Our budget was \$62 million, you have increased it to \$80 million and I appreciate that very much and thank you for it.

Mr. BONNER. How would that compare with your counterpart agency in China, since so many of the headline stories we have read about over the last year or so have involved Chinese companies? How large is your counterpart agency in China?

Ms. NORD. Our counterpart agency in China is known by the initials AQSIQ. It covers not only product safety but also FDA and other kinds of safety issues. So it is not a dead-on comparison, but when I asked my counterpart in China the size of his agency, I believe he said he had 120,000 people.

Mr. BONNER. 120,000 people and we have 400.

Ms. NORD. Yes.

INDUSTRIES IN NEED OF REGULATION

Mr. BONNER. My colleague, Mr. Kirk and others, have outlined some of the issues that you obviously and Commissioner Moore know probably better than most people have caused us great concern over the last year. If you could look into your crystal ball and predict which industry that currently is not adequately regulated, that would pose the greatest threat to American households, where would you see the next area of concern that we need to provide you resources to put that fire out before it starts?

Ms. NORD. Are you talking about imports?

Mr. BONNER. Yes, ma'am.

Ms. NORD. One thing that we are very concerned about is that we have seen a number of what I would call substandard imports of all terrain vehicles coming into this country without the kinds of safety equipment that you would expect to see and that you do see on products manufactured here.

Another issue that I think we need to be thinking about pretty aggressively is the whole issue of generators. Our concern here is carbon monoxide poisoning. Our agency just put in place a very aggressive new labeling requirement that has gone into effect and that we are now enforcing and we are in the midst of rulemaking that would try to drive down the CO emissions of generators, but you are seeing more and more generators being imported from Asia. Obviously mattress flammability is something that we are concerned about because we have just put in place a major new rule dealing with mattress flammability issues. We are in the early processes of enforcing that regulation so we are very alert to making sure that any mattresses that are imported meet our requirements. Those would be three things off the top of my head, I would be happy to expand on that.

Mr. BONNER. No. I just think it is good. We have seen before this committee several issues that it appeared that government was late in responding to. Last week we had a hearing on the subprime mortgage issue. And so it is good to know ahead of time if there are areas—I mean, you mentioned generators. I know the gentlelady from Florida and I are both from coastal States. So generators, especially during hurricane season, are very important. And if we are—we have had people die in the central Gulf Coast region because they were not adequately notified of the dangers of it. So we would just welcome some assurance that these are issues that you identify as areas that we need to put more attention to in the future.

EMERGING HAZARDS

Ms. NORD. If I could expand on that. One of the challenges our agency has and it is so hard to deal with, and that is the whole issue of emerging hazards. If you have a regulation in place, you can pretty easily determine if somebody is in compliance with that regulation. But most of the consumer products that we all use don't have some government regulation imposed upon them. The marketplace is too dynamic, and so what we see is products that are coming in that may meet regulations, or are not regulated, that might pose a hazard, and you don't recognize the hazard is there until you start investigating, until, unfortunately, an accident occurs. And that is the thing that our agency is faced with all the time every day, and it is very difficult for us.

Congressman Kirk referenced Aqua Dots. He said it killed a child. It did not. Anyway, that was a product that was a hazard that really couldn't have been anticipated. Once we saw it, our agency moved very, very quickly to deal with it. But the challenge we have is dealing with issues as they come up over the horizon.

Mr. BONNER. Thank you, Mr. Chairman.

Mr. SERRANO. Thank you.

Mr. Goode.

Mr. GOODE. Thank you, Mr. Chairman.

Let me ask you this. With regard to the lead-painted toys, which I know has been touched upon, how many of those 120,000 employees over there in China inspected the toys that were coming to Mattel and the other toy manufacturers in the United States?

Ms. NORD. I have no idea.

Mr. GOODE. Do you think any?

Ms. NORD. I don't have any idea.

Mr. GOODE. There are 120,000 that they allegedly have over there. Did they inspect—you know, we are talking about a product. But do they inspect anything like food products, or do they have a different agency in China?

Ms. NORD. No. AQSIQ has responsibility for food. It is much broader.

Mr. GOODE. So if we were doing a little comparison, we would have to include the USDA along with you and probably several other agencies of the Federal Government?

Ms. NORD. Yes.

TRADE WITH CHINA

Mr. GOODE. All right. Let me ask you this then. Do you know what the trade deficit with China was last year?

Ms. NORD. Significant.

Mr. GOODE. Yeah. Probably over \$300 billion. I am thinking about \$350 billion. What is the trade deficit in getting toys in all the products you look at from China?

Ms. NORD. You are getting beyond my—I can't at this point. I am sorry.

Mr. GOODE. But we are importing a whole lot more than we are sending over there, a whole lot more.

Ms. NORD. Yes, of course.

Mr. GOODE. All right. Let me ask you this. I know the administration, as was President Clinton before the current President, was a big advocate of permanent normal trade relations with China. From your perspective, as head of the Consumer Product Safety Commission, would you say that the permanent normal trade relations with China has been an outstanding success?

Ms. NORD. I really couldn't comment on the merits of that, other than to say that we have seen an increase in imports over the past 10 years or so. And our responsibility is to make sure that—

Mr. GOODE. Have we seen an increase in unsafe imports?

Ms. NORD. Our recalls are primarily of imported products, but most products that we use seem to be imports.

Mr. GOODE. All right. Do you think that helps the economy in the United States, those jobs that we are giving them in China to make the tainted lead products and whatever else they are shipping over here?

Ms. NORD. Well, I would have personal views on the economics of it, but my responsibility is the safety, and that is what we really focus on.

Mr. GOODE. Thank you, Mr. Chairman.

Mr. SERRANO. Thank you.

I at least run the risk of getting involved in foreign affairs, which I do. The Commission took the big hit on China. That is a fact. But we were all responsible, Congress and administrations have always kind of given China a pass. I mean, we forget—in fact, if you read and listen to our commentators, communism is dead, supposedly. It ended with the end of the Cold War. Mathematically, that is totally incorrect if the largest country in the world, most populous, still is a very serious Communist country. I am all for trade and all. But in general, China has gotten a pass. I can't help but think how upset we would be over these products if they had come from Venezuela.

Mr. GOODE. Mr. Chairman—

Mr. SERRANO. No, no, no, present company excluded. You have always been pretty strong on that, and I say that publicly. But China has gotten a pass, and we are outraged now that the Commission didn't catch everything. Well, I think every arm of government, every agency, has not been catching what has been coming from China both in that area and in other areas.

REAUTHORIZATION FUNDING

We already spoke about the database and the cost for the database. What else do you see in the reauthorization that gives you funding concerns? What should you tell us about so that we are aware of it ahead of time?

Ms. NORD. There are a number of directions in the legislation for us to promulgate regulations that are not contemplated right now in our regulatory agenda. So we will need to be starting new regulatory proceedings, and that will, of course, be a staffing issue. A management issue that I have is the whistle blower provision of the legislation. Right now our agency, like all other Federal agencies, is subject to the general whistle blower provision. The Senate bill does, however, overturn long-standing CPSC policy regarding our employees making decisions as to whether they will make

themselves available to testify in either court proceedings or legislative proceedings right now. It is a decision that is made by their supervisors and their management and the legislation makes it very clear that the individual employee would have the ability to make that decision. That poses some concerns to me about how we are going to be able to manage our employees and projects. And that has fiscal concerns as well. Those are two things that come to mind immediately. What I would like to do if I might, sir, is pull together just a list of the new regulatory and administrative enforcement requirements and price them out for you.

Mr. SERRANO. Sure. I am sure that you have done it to some extent, maybe to a full extent. But these issues are of such concern to us, that if you look at the first bill put together, last year's bill, by this subcommittee, the preamble if you will, the opening statement of the report speaks strongly about this subcommittee's desire to have a theme of consumerism and protecting consumers. So we directed that. That was purposely done. So if you see us with great interest in your Commission, it is because the whole committee has decided that this is an issue of great importance to us and we want to make it a theme of the subcommittee. That is what we did last year. We intend to do it again.

Assume for a second that the reauthorization bill is approved and signed by the President. Do you expect the administration to send Congress a budget amendment that reflects that increased cost? And would you encourage them to do so? I know OMB gets in the way, but would you expect one to come? I mean, there will probably be another 20 supplementals before the President leaves office.

Ms. NORD. I think it is going to be very difficult for our agency to absorb those new requirements without new funding unless we take things away from what we have said we are going to be doing this year. So I would not be surprised to be in front of you again.

Mr. SERRANO. I know you would be in front of us again. Would you recommend—there is only us here. Nobody else has to know. The President won't know if you say it out loud. Would you recommend that they send us a budget supplemental request?

Ms. NORD. Again, without knowing what final legislation is like, I feel I need to be cautious here, sir. But I do not see how we will be able to implement many of those requirements without new resources.

IMPORT SAFETY INITIATIVE

Mr. SERRANO. Let me talk to you about import safety. The 2009 budget request includes an increase of \$3.2 million and 24 full-time equivalent employees for an import safety initiative. I know you have spoken about it somewhat, but what are the goals? What do you see happening here? And if an inspector finds a shipment of unsafe products, what happens then? Does the Commission have the power to stop the shipment from reaching the marketplace? At what point do you exercise powers that you have? And, you know, I would like to see people yelling and screaming that the Commission is overstepping its boundaries on behalf of the consumer. That would be a great thing, and you would get a standing ovation from this committee. At least from Mr. Regula and I.

Ms. NORD. What we intend is to have a division within our Office of Compliance that has focused responsibility for import surveillance. And we have created that division now with this new funding. We just did it at the beginning of the year and have appointed a head of it, the deputy, and we are now in the process of staffing that. What that means is that we will have a full-time person, permanent person assigned to this country's busiest ports. And I would be happy in a closed session to discuss with you in more detail which ports those would be. We do see the phenomenon of port shopping, so I am reluctant to have our plans discussed fully and publicly, but would be happy to do that either in writing or——

Mr. SERRANO. I never thought there would be a top secret part of this committee. I am used to it in Homeland Security, where 90 percent of what is discussed is discussed, you know, "oh, we can't tell you that in public." But I understand. You don't want to alert people to——

Ms. NORD. Port shopping is a phenomenon that we do see. So we obviously want to minimize that. But those people will have on-the-line responsibility to work with their counterparts with Customs at the ports specifically.

We have had people at ports but not permanent full time. So that is one aspect of it. Another aspect of it is to really redefine our relationship with Customs and Border Protection through what is known as the ITDS system. We have now accessed Custom's Automatic Commercial Environment System, which is a database of basically the charts, the cargo that is coming into our ports. And by the end of the year, we will have 18 people who will have had the specific clearances and the training in order to access that system. What that means is that they will know that these products are coming before they get there, so that they can, in a more focused and targeted way, pull shipments and identify shipments. The other thing that this does is allow us to track the exporter and the importer. So that if we have some bad actors that we are aware of and we see them having other shipments coming in, we can focus our attention on those kinds of shipments. There is so much product coming in to this country every single day that what we have to do is develop a risk-assessment process, and that is one of the things we are doing with the new IT funding as well. So that will hopefully allow our inspectors to focus on higher risk kinds of cargos in a very effective way. Finally, we have arranged with Customs to get them to also test some of the product——

Mr. SERRANO. Customs?

Ms. NORD. They have laboratories and——

Mr. SERRANO. They will blame it all on immigrants, trust me. Be careful. They have a knack for blaming everything on immigrants.

Ms. NORD. Thank you. I appreciate that word of warning. We have also now purchased something that are called XRF machines, which are able to screen products, at least with respect to the lead paint issue, in a more effective and efficient way. We now don't need to send all of the product to the various labs for testing, only the product that fails the screening test. Again, that is another way of becoming more efficient.

Mr. SERRANO. Just one last question on this. What percentage of imported products do you think you will be able to review through this initiative?

Ms. NORD. A miniscule percentage. Just a tiny percentage. Again, what we need to be working towards is a system that allows us to be focusing on the higher risk kinds of products. I mean, if I could give you what was a startling statistic to me, the FDA has well over 400 inspectors. I mean, their inspection corps is bigger than our agency, and they inspect 1 percent of the incoming product. We have more things under our jurisdiction than they do. So we have to make sure that we are focusing on high risk kinds of shipments, and that is one of the things that is my highest priority, to get that infrastructure, those mechanisms in place. That is a daunting task, sir.

INDUSTRY-FUNDED TRAVEL

Mr. SERRANO. Let me ask you my last question. As you know, the subcommittee expressed serious concern over reports that members of the CPSC accepted industry-funded domestic and international travel. In fact, the subcommittee included provisions in the 2008 bill to prohibit industry financed travel by any regulatory body funded in our bill. This is your first appearance before the subcommittee since the reports of such travel were publicized. Could you comment on the reasons why travel was accepted, financed by entities that the CPSC regulates? Could you also comment on the internal procedures used to review and authorize such travel? I understand that in one case, for instance, the approval occurred after the trip was taken. This, I think, added to the woes of the Commission. It gave a very serious impression, and I think well based at times, that some how you were not protecting the consumer, that you were hanging out with some of the culprits. What can you tell us? What happened? Why did it happen? Can it happen again?

Ms. NORD. Okay. Well, I agree that it added to the woes of the Commission, and it was not helpful to us. The Product Safety Act has a specific provision that Congress wrote originally when it wrote the act that allows us to accept gifted travel from outside entities. So that is one aspect of it. Two, the agency has been complying with the regulations that apply government-wide that were put in place by GSA dealing with the acceptance of funding from nongovernment sources. Both Commissioner Moore and I have taken trips that were funded by nongovernment sources, not on a regular basis; certainly not on the scale that was reported in the newspaper. In my instance, I think it was three trips, and Commissioner Moore's instance, it was two. All the trips were vetted before they were accepted.

Mr. SERRANO. By?

Ms. NORD. By our ethics officer and our General Counsel's Office and were signed off by the executive director of the agency. You referenced one that was done after the fact. The vetting was done before the fact, and verbal approval was given. The paperwork in that instance was signed after the fact. But the vetting was done before the trip occurred. So we have in place a process that is fairly rigorous to look at these things. We certainly do not accept gifts of

travel from an entity that is being regulated by the agency. Now——

Mr. SERRANO. When you say you don't accept, this is after this came to light last year? This is a new procedure or always?

Ms. NORD. No, no.

Mr. SERRANO. Because if it is always, then you are making it sound like there was no basis for the concern, and the concern was pretty serious, and I think, you know, baseball is 75 percent pitching. What we do is 75 percent perception.

Ms. NORD. Sure.

Mr. SERRANO. And the perception was that this was no good, that this was bad.

Ms. NORD. Well, each of the trips goes through an ethics examination before it is approved. And to my knowledge, because a lot of this happened before I was even at the agency, each of those trips did go through that vetting; certainly for the trips that I was involved in they did. But as soon as it came to light and questions were raised, I put in place a policy saying that we would not accept any nongovernmental funded trips. We have had conversations with you about how that is going to impact our budget because one of the reasons we do this is that you can either spend taxpayers' money to go and talk to manufacturers about their legal responsibilities or you can spend their money.

Mr. SERRANO. I understand that. I told you we were on your side in trying to make the agency work well; right?

Ms. NORD. Sure. I appreciate that.

Mr. SERRANO. Let me give you some advice. Don't use that reason. That is the old police department thing about cops are taking bribes because they didn't make enough. And that was not a good reason for them to take bribes in the old days or in any time. I would hope that you understand that, first of all, this committee could not end this hearing today without bringing that issue up; secondly, that it does concern us, it concerns the public, concerns the media and that the perception was not good. And I hope that rather than spending time saying we did something that was under the rules at that time or within the rule, simply stick to this new plan that it can't be done. You don't leave that door open for any accusation, correct or not, that you are not on the side of the consumer.

Ms. NORD. Well, I understand. And we tried to address it immediately when it came up. We recognized that you have recognized our need to be out there going around the country, policing the marketplace, and so very much appreciated the fact that you have designated specific funds for that purpose, and we will use them well in that way.

Mr. SERRANO. Thank you.

And now a man who has never turned his back on the consumer, Mr. Regula.

PURCHASING SAFE TOYS

Mr. REGULA. Well, along that line, what would you advise a friend of yours who is going out to do a lot of shopping for toys for her children or family? How would you advise her what to look for

and use her power as a purchaser to try to ensure that these toys that he or she is going to buy are safe?

Ms. NORD. What I would tell that mother is to look for age-appropriate toys, to be a label reader and make sure that the toy that she is purchasing is appropriate for her child. The toy market, where we see the most deaths and injuries from toys are children choking on small balls, children on skate boards and scooters, especially riding them into the street and into traffic. We saw several children die on trikes last year. In fact, two of them rode the trikes into the swimming pool. So there are dangers there. But parents need to make sure that the toys that they buy for their children are appropriate for their children. And that is the strongest piece of advice I could give.

Mr. REGULA. That would be appropriate in the judgment of the parent, in a way, to not buy something that is beyond their age level and using, but that doesn't address the problem of lead paint or possibly some of the manufacturing processes that might make these toys undesirable. I suppose there is really no way to get at that entirely.

Ms. NORD. Well, there really isn't unless you choose to turn our agency into an agency that inspects all product manufacturers. But that would mean that our agency would be very, very different from the one it is now.

Mr. REGULA. Very large.

Ms. NORD. It would be very, very large. So what we need to do is put in place procedures and processes to make sure that manufacturers know their obligations and comply with them; that we have the ability to police the ports; that we have the market surveillance operation in place; and that we enforce laws and do it in an aggressive way.

Mr. REGULA. The best tool is well educated purchasers.

Ms. NORD. That certainly is true.

ROLE OF CUSTOMS

Mr. REGULA. One last question. What is your role vis-a-vis Customs? It seems to me like there is similar overlap here. How can you decide whether customs is going to be responsible for the safety of a product or your agency is going to be responsible?

Ms. NORD. Well, our statutes are quite clear on that point in that Customs has the ultimate responsibility to seize and deal with the product. And we work very closely with them. If we can show a violation of a regulation, that is an easy call for Customs to make because then they will deal with the violative product. They will seize it. They will destroy it. They will send it back to where it came from.

Mr. REGULA. But does Customs have laboratories to evaluate products like paint? Do they have that capability?

Ms. NORD. Well, they do have some laboratories, but they have never really been used in that way up until this past year when we forged this new relationship with them so that they are now making their laboratories, some of their laboratories available in appropriate circumstances. But what we have done with respect to the lead paint issue specifically is that we have some new screening tools and devices in place at the major ports. There is a screen-

ing machine called the XRF, please don't ask me what that stands for because I can't tell you. But it does allow us to screen for heavy metals right there on the spot very quickly. So that has been very, very helpful. But going back to the bigger question, we work with Customs. We consult with Customs. We ask Customs to do things for us, and generally they are very supportive and are helpful to us in that way. But, you know, at the end of the day, Customs' main focus is Homeland Security. So, you know——

Mr. REGULA. Homeland Security would certainly include the security of the children.

Ms. NORD. Well, it has certainly been defined that way this year, sir.

Mr. REGULA. Do they have people in China, for example, that have some degree of oversight?

Ms. NORD. Customs does have a big presence abroad, yes.

Mr. REGULA. Thank you, Mr. Chairman.

Mr. SERRANO. Thank you, Mr. Regula.

Now a member who will never, ever forget to leave the territories out of any legislation in the future.

Ms. WASSERMAN SCHULTZ. Ever, ever again.

Mr. REGULA. She did that?

Mr. SERRANO. She did that.

POOL DRAIN COVER MANDATE

Ms. WASSERMAN SCHULTZ. Ms. Nord, going back to the drain cover mandate that is in the Pool and Spa Safety Act, how was the agency planning on enforcing the mandate? And are you going to be hiring inspectors to make sure that pools are compliant?

Ms. NORD. Well, at this point, what we are doing is putting out a guidance document that will outline what the responsibilities are. And as it goes into effect——

Ms. WASSERMAN SCHULTZ. Who is that being distributed to?

Ms. NORD. It will be distributed to the manufacturers, to the retailers, to the product sellers and also——

Ms. WASSERMAN SCHULTZ. This is a retroactive provision?

Ms. NORD. Yes.

Ms. WASSERMAN SCHULTZ. So a pool owner, an existing pool owner isn't going to have any interaction with those kinds of entities?

Ms. NORD. No.

Ms. WASSERMAN SCHULTZ. How are you supposing to make sure that existing pools retrofit their pools with drain covers?

Ms. NORD. Private pools?

Ms. WASSERMAN SCHULTZ. Yeah.

Ms. NORD. I would like to come back to you with that because there is an ongoing debate within the agency about how exactly we are going to be able to do that. There are some issues that we have discussed with your staff about the legal ability for us to do that. So it is a subject of ongoing debate within the agency.

Ms. WASSERMAN SCHULTZ. Okay. I mean, there isn't any question that that is what is required in the law.

Ms. NORD. I understand. But——

Ms. WASSERMAN SCHULTZ. And I would assume that because it is required in the law, the law gave you the authority to ensure

that the law could be enforced. I mean, that is what you are; you are an enforcement agency.

Ms. NORD. There are going to be some legal issues with respect to retrofits that we are grappling with. And again, we have started the conversation with your staff, and we would like to continue.

Ms. WASSERMAN SCHULTZ. Okay. Well, let us know how we can help you with that.

POOL AND SPA SAFETY FUNDING

Commissioner Moore, you stated in your testimony that the CPSC was compelled to achieve staff reductions through nontargeted means, such as attrition, early outs and buyouts, resulting in the loss of key staffers and experts in areas including drowning prevention. Now, the testimony here today maintains that the flat funding that is being requested of \$80 million is sufficient to meet the resource needs that the agency has. And I am not sure how that is true if you have a new mandate for pool and spa safety and you have lost your drowning prevention expertise.

Mr. MOORE. Well, that issue is not covered under the—what we are working within this appropriation process is the amount of funding allocated to us by the President's budget office.

Ms. WASSERMAN SCHULTZ. Did you ask, did the Commission ask the President to include funding for the Pool and Spa Safety Act?

Mr. MOORE. No. I don't think we did. No. No, we did not ask for that. So that is the foundation of what we—

Ms. WASSERMAN SCHULTZ. I am still not understanding why the Commission didn't ask for the funding to implement this if you have lost your drowning prevention expertise and you have asked for flat funding and you know you can't really fully implement the law without additional funding.

Mr. MOORE. Well, we expected that the Congress would make the increased funding available for us.

Ms. WASSERMAN SCHULTZ. Every agency gets new mandates every year, and the agency is expected to signal to the Congress in the budget request that they need the funding. How are we supposed to know, other than I am on the subcommittee, that you need the funding and want the funding unless it is included in the budget request? It doesn't just happen by osmosis.

Mr. MOORE. No, you are certainly right about that.

Ms. WASSERMAN SCHULTZ. Wouldn't you think that you should send a signal to the Congress that after getting a new mandate like the Pool and Spa Safety Act that it should be asked for in your budget since you can't fully implement it and not rely on the possibility of it being added on top of your budget request?

Mr. MOORE. Well, there is some uncertainty there in terms of what would be the next step in the Congress in terms of funding that provision.

Ms. WASSERMAN SCHULTZ. What uncertainty? It is authorized for the next 5 years, and then Congress should be appropriating it. Why wouldn't the Commission ask for it?

Mr. MOORE. I agree.

Ms. NORD. A point of clarification. Our budget request went to OMB before the legislation passed. So we weren't dealing with a piece of legislation at that point.

Ms. WASSERMAN SCHULTZ. There were 2 months that elapsed between when the legislation passed and when your budget was submitted to Congress.

Ms. NORD. But our——

Ms. WASSERMAN SCHULTZ. It isn't amendable after it goes to OMB?

Ms. NORD. Our request went to OMB well before the legislation passed.

Ms. WASSERMAN SCHULTZ. When did your request go to OMB?

Ms. NORD. Before the legislation passed.

Ms. WASSERMAN SCHULTZ. And is it not——

Mr. MOORE. We certainly agree with you and would very much like to see increased funding added.

Ms. WASSERMAN SCHULTZ. No. And you have established that, and I appreciate it. It is just that you, in your testimony, Commissioner Moore, said that you have lost your drowning prevention expertise. So if you haven't asked for the funding, and you have asked for flat funding for the whole agency, and we are not sure how much we are going to be able to give you to implement this, how are you going to do it without your drowning prevention expert? On top of the fact that last year you took this out—you took drowning prevention out of your list of strategic priorities. All of those combined are not very strong signals that the CPSC makes drowning prevention a priority any longer. Are you hiring a person to replace the drowning prevention expertise that you lost?

Mr. MOORE. I don't hire people for the Commission.

Ms. WASSERMAN SCHULTZ. It is just that it was in your statement. That is why I am asking you.

Ms. NORD. Commissioner Moore's statement referenced one individual who did retire after many years of service. We have other people who have expertise in that area, and indeed, Congresswoman, our leading spokeswoman on this, who actually lost her child through a drowning accident, is out in California tomorrow giving a major speech on this particular issue. There are people within the agency who do have expertise dealing with this, as Commissioner Moore just referenced one individual who didn't happen to retire. But there are——

Ms. WASSERMAN SCHULTZ. Are you going to be adding drowning prevention expertise in the event that you get funding to implement the Pool and Spa Safety Act?

Ms. NORD. If we get the funding, absolutely, of course we will.

Ms. WASSERMAN SCHULTZ. Thank you very much.

Mr. CHAIRMAN. I yield back.

WARNING LABELS IN DIFFERENT LANGUAGES

Mr. SERRANO. Thank you. I have one last question before we wrap up today, and we thank you for your indulgence. One of America's probably best kept secrets is how much advertising is done in this country in languages other than English. I think the English-only movement would have a heart attack if they saw how much is spent on advertising in languages other than English. Now, consumer advocates have always held that there should be warning labels in languages other than English. Courts have said at times that there should be; other courts have said that there

shouldn't be. But I think that if you advertise a product in a language other than English, you should have warning labels in that language. And I would like that to be the case. What is your thought on that? And I am specifically limiting it now, as bad as this may sound to the advocates of using many languages, I am specifically limiting to those who sell you the product in a language other than English. Should they not also give you the warning labels in that language? Big issue in New York and Florida and Ohio.

Ms. NORD. That is something that we struggle with and have internal conversations about all the time in our agency. And indeed this issue came up most recently with our warning label that we are requiring on all generators. At the end of the day, the way the Commission addressed this issue was to say that we would encourage the use and allow the use of labels in languages other than English. There is a concern that when you put the label in different languages, the label size is impacted. The impact of the label is impacted, which I know is not at all what you want to hear in my response to this question. But I give it to you because I want you to be aware that this is something that we debate internally on a regular basis, and we have got actually a staff of human factors experts who advise us on these things.

Mr. SERRANO. Well, keep in mind that they advertise, for instance, in the case of Spanish, there are hundreds if not thousands of radio stations that are totally in Spanish. You now have a new trend in the last 4 or 5 years of stations that are bilingual in nature where the disc jockey may speak in Spanish, the commercials are in English or vice versa or you go back and forth during the whole day. In fact, the number one stations in New York and L.A. happen to be Spanish radio stations. And that is what they do; they mix it up for the younger crowd and so on.

But here is my point. If you are advertising in Spanish, in the case of Spanish, you are doing it for two reasons: One, because culturally it is a nice thing to appeal to that group. But also because you know that there are some other older folks perhaps, not the younger folks, older folks that you can sell your product to easier in that language. Don't you then have a responsibility to warn them of the problems in that language also? And let me tell you that this is a big issue on another level, too. The Federal Trade Commission, I think, has no clue as to what is said on Spanish TV and radio when it comes to advertising and what is advertised.

Ms. NORD. Really?

Mr. SERRANO. Oh, I don't think they really do. In fact, touching on a very touchy subject that I have done before, if you saw how many items are sold in Spanish that say, if you buy a particular crucifix, you will never be ill again—and I know that is a dangerously touchy subject—but I don't think you could see that in English. Somebody would be questioning what they have seen. The latest one has five bottles of water that come from the Holy Land.

Ms. WASSERMAN SCHULTZ. Will the gentleman yield?

Mr. SERRANO. Yes.

Ms. WASSERMAN SCHULTZ. At least 30 percent of my district is Hispanic, at least 25 to 30 percent. And the consumer products have even evolved to the point, as I am sure you know, where if

we have a warning label that is only in English when many, many, if not most, products now—you go into a toy store in Florida, and you have two different sets of labels on what the product is called. If you have a Dora Exploratory, it will say doll in English—I am sorry, Mr. Chairman—whatever doll is in Spanish.

Mr. SERRANO. Muñeca.

Ms. WASSERMAN SCHULTZ. Thank you. So it is kind of mind boggling that you can have the labels for the product themselves promoting and advertising to Latino families to sell you the product and then not give them the appropriate warning labels because we are worried that we logistically couldn't figure that out. That means that, at least in my district, 30 percent of the people, we don't care that they get the safety warning, but we want them to buy the product. That is really the wrong message to be sending.

Mr. SERRANO. Getting back to the Federal Trade Commission, I don't think they know what is advertised in Spanish, and some of it is scary. And like I said, I touch on a very touchy subject because some people would say I am touching on religion. They did bring in somebody who was selling a crucifix that supposedly would cure cancer, and they took care of that for a while. And, you know, again, faith versus selling you something for \$29.99 I think are not the same issue. So I know internally you struggle with it. I think the message that we would like you to take back is, if someone is spending millions of dollars and the industry spends billions of dollars advertising in languages other than English, mostly in Spanish, if they can sell, as the gentlewoman has stated—I mean, depending on where I buy tooth paste, it is either in English or in two languages. And if I go to the south Bronx district, certain parts of my district, just about every product I buy, on the tube itself, and on the box, has two languages. Well, then why not warn me in two languages, too?

Ms. NORD. I hear you.

Mr. MOORE. But generally, the Consumer Product Safety Commission, that is not our focus. Our focus is to get a product, that is dangerous to the family, off the market entirely, not have a label that is saying there is a problem with it. Our job—we get it off the shelves. That is what we do.

Mr. SERRANO. Well, I understand that. And we are all hopeful that you will keep getting unsafe products off the shelf. But you also do get involved in general consumer issues, and those issues have a lot of different tints to it, not just the simple one—or the dramatic one of taking a product off the market. We thank you both for your testimony. We thank you for your appearance before the committee. We thank the members of the committee, and we look forward to working with you to make sure that the Commission's work is carried out properly on behalf of the consumers. We stand ready to support you in any way that we can. This hearing is adjourned.



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Nancy Nord, Acting Chairman
Thomas H. Moore, Commissioner

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Responses to Questions for the Record

The Honorable Nancy A. Nord
Acting Chairman
U.S. Consumer Product Safety Commission

Subcommittee on Financial Services and General Government
Hearing on the U.S. Consumer Product Safety Commission
March 11, 2008

Questions for the Record
Submitted by Chairman José E. Serrano

1. New funding requirements under the reauthorization. Both of you mention in your testimony that the Commission will be in contact with the subcommittee in the future regarding additional funding that may be required as a result of the new regulatory, enforcement, and other mandates likely to be included in the final reauthorization bill. For planning purposes, the subcommittee needs as much information as possible on the Commission's potential funding needs.

- **What are the specific initiatives in both the House and Senate versions of the reauthorization that will require additional funding in FY 2009, and what are your current estimates of that funding?**
- **How many more employees will be necessary to fulfill the new requirements under either version of the reauthorization?**

RESPONSE: The attached CPSC staff document (dated April 1, 2008) estimated funding and staffing requirements for each provision of the House and Senate versions of the reauthorization. Subsequent to preparation of these estimates, CPSC staff has had further discussions with House and Senate authorizing committee staff regarding Section 7 of the Senate version of the legislation. At the request of Senate staff, CPSC staff is developing further estimates based on possible revisions to the language in Section 7.

[Clerk's note: These updated CPSC staff estimates are included in the attached document entitled, Public Database of Incidents: Preliminary Business Case.]

HOUSE		Estimated Costs of H.R. 4040 for CPSC (12/19/07)				2009 Resources				Costs (dollars in thousands) for First Year (2009)				4/2/2008
H. S. §	Title	House Provision				FTEs		S&B ¹		Other Costs ³		Indirect Costs ³	Total	Comment
		The short title of the Act is the "Consumer Product Safety Modernization Act."												
1	Short Title; Table of Contents.													
2	References.	"Commission" refers to the "Consumer Product Safety Commission." Amendment of a section or other provision amends the CPSA, unless expressly stated otherwise.												
3	Authority to Issue Implementing Regulations.	Provides Commission with authority to issue regulations, as necessary, to implement the Modernization Act.												
Title I - Children's Product Safety														
101	22 Ban on Children's Products Containing Lead; Lead Paint Rule.	Makes children's (age 12 years or younger) product containing more than specified amounts of lead a banned hazardous substance effective 180 days after date of enactment (600 parts per million; effective 2 years after date of enactment, 300 parts per million; effective 4 years after date of enactment, 100 parts per million or lowest amount feasible to achieve). Provides for periodic review of standard by Commission. Commission may, by rule, exclude certain products and materials, establish, more protective standards, etc. Requires Commission to reduce the standard applicable to lead paint from 0.06 percent to 0.009 percent and set 0.009 milligrams per centimeter squared standard for surface coatings on children's products, not later than 180 days after enactment. Provides Commission with authority to extend the implementation periods for the ban in lead in children's products and the lead paint rule under limited circumstances.				13.0	\$1,521	\$515	\$380	\$2,416	7.5 technical staff; 2.5 attorneys; 3 compliance staff; \$515,000 for contract support.			
102	10 Mandatory Third-Party Testing for Certain Children's Products.	Amends CPSA to require third-party testing and certification by manufacturers and private labelers of certain children's (12 years of age or younger) products and packaging, effective one year after date of enactment. Provides Commission or independent standard-setting organization authority to certify or decertify laboratories.				17.0	\$1,989	\$110	\$497	\$2,596	12.5 technical staff; 2.5 attorneys; 1 compliance staff; 1 import surveillance staff; \$110,000 for contract costs.			

			Costs (dollars in thousands) for First Year (2009)						
			Other		Indirect				
H §	S §	Title	House Provision	FTEs	S&B ¹	Costs ²	Costs ³	Total	Comment
103	11(b)	Tracking Labels for Children's Products.	Requires manufacturers of children's products to place tracking labels ("to the extent feasible") on products (effective one year after date of enactment).	1.6	\$187	\$0	\$47	\$234	.8 technical staff; .5 compliance staff; .3 attorney (contract costs shown in sec 105)
104	34	Standards and Consumer Registration of Durable Nursery Products.	Requires Commission to replace voluntary standards for durable infant or toddler products with consumer product safety rules that are the same or more stringent. Requires Commission to commence rulemaking not later than one year after the date of enactment and promulgate rules for no fewer than two categories of durable nursery products every six months thereafter. Requires Commission to promulgate rule not later than one year after date of enactment to require manufacturers of durable infant or toddler products to provide consumers with registration forms. Requires Commission to conduct study on effectiveness of consumer product registration forms and report findings to Congress not later than four years after date of enactment.	10.6	\$1,240	\$165	\$310	\$1,715	7.6 technical staff; 1 attorney; 2 compliance staff; \$165,000 for contract costs.
105	11(a)	Labeling Requirement for Certain Internet and Catalogue Advertising of Toys and Games.	Amends the FHSA to require that, when a product's packaging requires a cautionary statement (e.g., as in balloons, small balls, marbles) the advertising for the product, including on Internet sites and catalogues, must bear the same cautionary warning. Treats requirement as a rule, violation of which is treated as a prohibited act under the CPSA. Effective 180 days after enactment. Commission may, by rule, modify the requirement.	2.15	\$252	\$10	\$63	\$324	1 compliance staff; .9 technical staff; .25 attorney; \$10,000 for contract costs.
106	24	Study of Preventable Injuries and Deaths in Minority Children Related to Consumer Products.	Requires Comptroller General to begin study not later than 90 days after the date of enactment to assess racial disparities of rates of preventable injuries and deaths associated with the use of certain products intended for use by children. Requires Comptroller General to report findings to Congress not later than one year after date of enactment.	1.3	\$152	\$0	\$38	\$190	1.3 technical staff

		Costs (dollars in thousands) for First Year (2009)					
		Other		Indirect			
H. S. §	Title	FTEs	S&B ¹	Costs ²	Costs ³	Total	Comment
107-29	Review of Generally Applicable Standards for Toys.	8.25	\$965	\$100	\$241	\$1,307	75 attorney; 7 technical staff; 5 compliance staff; and \$100,000 for testing.
		House Provision					
		Requires Commission to assess effectiveness of ASTM International F963-07 safety standard for toys, including its effectiveness relating to intestinal blockage and perforation hazards caused by ingestion of magnets. Requires the Commission to expedite rulemaking to consider adoption of the voluntary standards relating to magnets as a consumer product safety rule if it finds substantial noncompliance with the voluntary standard. Requires a report to Congress not later than two years after date of enactment.					
Title II - Consumer Product Safety Commission Reform							
201-3	Reauthorization of the Consumer Product Safety Commission.	2.5	\$293	\$10	\$73	\$376	2.5 technical staff; \$10,000 for contract costs.
		Authorizes appropriations through FY 2011 (\$80M FY09; \$90M FY10; \$100M FY11, and \$20M for FY09 and FY10 for laboratory modernization). Requires report to Congress within 180 days after enactment on plans to allocate funding.					
202-5	Structure and Quorum.	8.0	\$1,290	\$500	\$322	\$2,112	2 commissioners, 6 commissioners' assistants; \$500,000 is included for office build out and furnishings
		Extends temporary quorum, apparently potentially as far as 2/3/2009. Repeal limit of 3 Commissioners.					
203-6	Submission of Copy of Certain Documents to Congress.						Provides whenever Commission submits any budget request, legislative recommendations, testimony, or comments on legislation to the President or the Office of Management and Budget, it shall concurrently transmit a copy of that estimate, request, or comments to Congress.
		Provides whenever Commission submits any budget request, legislative recommendations, testimony, or comments on legislation to the President or the Office of Management and Budget, it shall concurrently transmit a copy of that estimate, request, or comments to Congress.					
204-8	Expedited Rulemaking.						Modifies procedures for rulemaking under CFSA, FHSA, and FHSA, including permitting elimination of an advance notice of proposed rulemaking.
		Modifies procedures for rulemaking under CFSA, FHSA, and FHSA, including permitting elimination of an advance notice of proposed rulemaking.					

H.S.S.	Title	Costs (dollars in thousands) for First Year (2009)					Comment
		FTEs	S&B ¹	Other Costs ²	Indirect Costs ³	Total	
205	7 Public Disclosure of Information.	1.5	\$176	\$0	\$44	\$219	1 technical staff, .5 attorney
	House Provision Shortens notification period from 30 days to 15 days that the Commission must provide to companies before releasing information from any source concerning products of those companies. Shortens period for seeking injunction to prevent release from 10 to 5 days. Eliminates requirement that CPSC publish a "public health and safety" finding in the Federal Register before further shortening notice period.						
206	7 Publicly Available Information on Incidents Involving Injury or Death.	2.4	\$281	\$600	\$70	\$951	\$600,000 for study plan, 1.4 technical staff, .5 attorney; .5 compliance staff. Does not include \$20 million potential startup contract and data integration costs; (Note: beginning in 2010, recurring costs are \$3.7 million for 8 IT staff, 5 technical staff and \$1.8 million in contract costs).
207	9 Prohibition on Stockpiling under other Commission-Enforced Statutes.						
	Applies CPSC stockpiling prohibition to all statutes Commission enforces.						
208	12 Notification of Noncompliance with any Commission-Enforced Statute.	3	\$351	\$0	\$88	\$439	1 compliance staff, 2 attorneys.
	Amends reporting requirement in Section 15(b) of the CPSCA to include report of noncompliance with FHSA, FFA and PPPA.						
209	13 Enhanced Recall Authority and Corrective Action Plans.	5.2	\$608	\$0	\$152	\$761	2 compliance staff, 1 attorney, 2.2 technical staff
	Enhances recall authority of Commission. Provides for Commission approval of corrective action plan, including remedy choice, and amendment or revocation of action plan if necessary. Requires Commission to establish guidelines not later than 180 days after date of enactment, setting forth uniform class of information to be included in any notice that is required as part of a corrective action plan.						

		Costs (dollars in thousands) for First Year (2009)							
		Other		Indirect					
H.S.	S.S.	Title	House Provision	FTEs	S&B ¹	Costs ²	Costs ³	Total	Comment
210		Website Notice, Notice to Third Party Internet Sellers, and Radio and Television Notice.	Authorizes Commission to require notice on product hazards on internet websites and, when the Commission determines necessary, in radio and television announcements in languages other than English.						
211		Inspection of Certified Proprietary Laboratories.	Expressly authorizes Commission to inspect certified proprietary laboratories.						
212	14	Identification of Manufacturer, Importers, Retailers, and Distributors.	Requires manufacturer, importer, retailer, or distributor of a consumer product to provide information to the Commission to identify each other when requested by Commission.						
213	15(b)	Export of Recalled and Non-Conforming Products.	Permits the Commission to prohibit export of consumer product for purposes of sale that violates a rule under an Act enforced by the Commission, is subject to an imminent hazard order or is a banned hazardous substance under the FHSA, or is subject to a voluntary corrective action carried out in consultation with the Commission.	1.5	\$176	\$0	\$44	\$219	1 compliance staff; .5 attorney.
214	15(a)	Prohibition on Sale of Recalled Products.	Prohibits sale of any recalled product (any consumer product that is not in conformity with an applicable consumer product safety standard under the Act, subject to a voluntary corrective action taken by the manufacturer, subject to an imminent hazard order, or designated a banned hazardous substance under the FHSA).	4.5	\$527	\$0	\$132	\$658	2 compliance staff; 2.5 attorneys.
215	16(a)	Increased Civil Penalty.	Increases cap on civil penalties incrementally to \$5,000,000 and then to \$10,000,000. Broadens factors to be considered by Commission in imposing penalties. Requires the Commission to issue a final regulation providing its interpretation of the penalty factors described in CPSA, FHSA, and FFA not later than one year after the date of enactment.	5.6	\$655	\$125	\$164	\$944	6 technical staff; 3 attorneys; 2 compliance staff; \$25,000 for travel; \$100,000 for litigation support. (Note: the Department of Justice may incur increased litigation costs to support civil penalty actions).
216	16(d)	Criminal Penalties to Include Asset Forfeiture.	Provides that criminal penalties for violations of CPSA, FHSA, and FFA may include asset forfeiture.	0.5	\$59	\$0	\$15	\$73	.5 attorney

		Costs (dollars in thousands) for First Year (2009)						
H §	S §	Title	House Provision	Other			Total	Comment
				FTEs	S&B ¹	Costs ²	Costs ³	
217	20	Enforcement by State Attorneys General.	Allows State Attorneys General to bring actions to enforce a consumer product safety rule or order and to seek injunctive relief.	4.5	\$527	\$0	\$132	\$658; 2 attorneys; 2.5 technical staff
218	17	Effect of Rules on Preemption.	Prohibits Commission from seeking to modify application of preemption provisions in CPSA, FHSA, PPPA, or FFA via issuing a rule or regulation.					
219	18	Sharing of Information with Federal, State, Local and Foreign Government Agencies.	Authorizes the Commission to make information obtained by the Commission under the CPSA available to any Federal, State, local or foreign government agency provided there is an agreement that such material will be maintained in confidence. Prohibits sharing information with terrorist states. Requires Commission to notify each State's health department whenever it is notified of any voluntary recall of any consumer product or whenever it issues an order that a product presents a substantial product hazard.	3.0	\$351	\$0	\$88	\$439; 2 compliance staff, 1 International staff
220	26 27	Inspector General Authority and Accessibility.	Requires the Inspector General of the Commission to report to Congress within 60 days after enactment on the activities of the Inspector General. Requires the IG to review and report to Congress within one year on Commission handling of certain employee complaints. Requires the Commission, not later than 30 days after the enactment, to establish and maintain on the Commission's homepage a mechanism by which individuals may anonymously report incidents of waste, fraud, or abuse with respect to the Commission.	3.25	\$380	\$0	\$95	\$475; 2.5 auditors; .5 technical staff; .25 attorney
221	35	Repeal.	Repeals provision allowing a risk of injury which is associated with a consumer product and which could be eliminated or reduced to a sufficient extent by action under the FHSA, PPPA, or FFA, to be regulated under the CPSA only if the Commission by rule finds that it is in the public interest to do so.					

H §	S §	Title	House Provision	Costs (dollars in thousands) for First Year (2009)					Comment
				FTEs	S&B ¹	Other	Costs ²	Costs ³	
222		Industry-Sponsored Travel Ban.	Prohibits Commissioners and Commission employees from accepting travel and related expenses with respect to official duties from a person seeking official action from, doing business with, or conducting activities regulated by, the Commission, or whose interests may be substantially affected by the performance or nonperformance of the Commissioner's or employee's official duties. Authorizes appropriations of \$1,200,000 for each fiscal year through 2011 for travel and lodging expenses necessary in furtherance of the official duties of Commissioners and employees.						
223		Annual Reporting Requirement.	Requires Commission to annually report the number and summary of recall orders issued during the year and a summary of the voluntary recall actions taken by manufacturers of which the Commission has notified the public.	1.0	\$117	\$0	\$29	\$146.1	compliance staff
224	43	Study on the Effectiveness of Authority Relating to Imported Products.	Requires the Commission to determine and report, not later than nine months after enactment, on a specific strategy to increase the effectiveness of the Commission's ability to stop unsafe products from entering the United States.	1.0	\$117	\$0	\$29	\$146.5	compliance staff; .5 attorney.
Grand Total				101.4	\$12,211	\$2,135	\$3,053	\$17,399	
1/ Average salary + benefits of \$117,000 for 2008, excluding Commissioners' offices who were priced based on costs specific to their offices.									
2/ Costs such as travel and contract support.									
3/ 25% of salary and benefit costs for space, IT support, printing, supplies, equipment, and administrative support.									

SENATE	Estimated Costs for the CPSC Reform Act, S 2663 Senate Amended version of HR 4040 (3/6/08) 2009 Resources										4/2/2008
SS	HS	Title	Senate Provision	FTEs	S&B ¹	Other Costs ²	Indirect Costs ³	Total	Comment		
1	1	Table of Contents	Table of Contents								
2	2	Amendment of CPSCA	References made are to CPSCA unless otherwise expressly stated								
3	201	Reauthorization	Provides increased funding through 2015, including funds for laboratory modernization (\$40 million for FYs 2009 and 2010) and nanotechnology safety research in cooperation with NIST & FDA (\$1 million for FYs 2009 and 2010). Bans acceptance of gift travel and states \$1.2 million of appropriations to be used instead for FY09-FY15.	2.9	\$339	\$10	\$85	\$434	2.9 technical staff, \$10,000 for contract costs.		
4		Personnel	(a)(1) Full time personnel to 500 by 10/1/13; (a)(2) 50 additional FTEs to U.S. ports/foreign inspections by 10/1/10, subject to appropriations; (b) professional career path development; (c) develop standards in consultation with other organizations for training product safety inspectors and technical staff and submit report to Congress within 180 days of enactment.	6.0	\$702	\$310	\$176	\$1,188	4 human resources staff, 2 technical staff, \$300,000 for contracts to develop career paths, \$10,000 for other contract costs. Estimate does not include the cost of an additional 56 FTEs to reach 500 full time personnel, for a cost of \$8.2 million		
5	202	Full Commission Requirement, Interim Quorum	(a)(1) and (2) repeals limit of 3 Commissioners; (b) provides 2 Commission quorum for 9 months from enactment date.	8.0	\$1,173	\$500	\$293	\$1,966	2 commissioners, 6 commissioners' assistants; \$500,000 for office build out and furnishings		
6	203	Submission of Certain Documents to Congress	(a) Commission must comply with Sec. 27(k) of CPSCA on budget and legislation; (b) conforms language at 31 USC 1113 note.								
7	205	Public Disclosure of Information	Amends Sec. 6(b) to remove publication of findings in the Federal Register, and reduces length of notification in Secs. 6(b)(1) and (2); sets forth new Dist. Ct. procedures when expedited consideration is requested by CPSC. New CPSCA Sec. 6(b)(9) requires, within 1 year, extensive, public, searchable database of all complaints of risk/injury/death except those from mfgs/retailers/private labelers under Sec. 15 or other voluntary or mandatory programs.	3.4	\$398	\$20,000	\$99	\$20,497	\$20 million startup contract and data integration costs; 2.4 technical staff; 1 attorney. (Note: beginning in 2010, recurring costs are \$3.7 million for 8 IT staff, 5 technical staff and \$1.8 million in contract costs).		
8	204	Rulemaking	Amends ANPR requirement in CPSCA, PHSA and FFA from "shall be commenced" to "may be commenced" and provides conforming amendments to the acts. Provides for consideration of "existing standards" at NPR stage.								
9	207	Prohibition on Stockpiling Under Other Commission-	Amends Sec. 9(g)(2) language to insert "or to which a rule under any other law enforced by the Commission applies," and striking "consumer product safety."								

		Costs (dollars in thousands) for First Year (2009)					Comment
SS	HQ	Title	FTEs	S&B ¹	Other Costs ²	Total Costs ³	
10	102	Third Party Certification of Children's Products	16.0	\$1,872	\$110	\$2,450	12.5 technical staff; 2.5 attorneys, 1 compliance staff; \$110,000 for contract costs.
		Subsection (c) requires 30 days after enactment that the Commission designate an existing lab certification procedure as an interim procedure until a final rule is enacted within 1 year. (c) also requires Commission to prescribe a rule within 1 year of enactment which establishes protocols and standards for certification, and prescribe standards for accreditation of 3rd party laboratories, requirements for periodic audits of 3rd party laboratories; Commission to certify "proprietary laboratories"; establish program by which manufacturers may label products as compliant; (d) provides conforming amendment language; (e) requires the Commission to prescribe a rule within 1 year of enactment for labeling and certification of children's products; (f) amends CPSA Sec. 17(a) to prohibit importation of children's products that don't have required certificates; (g) for standards, Commission may consider standards and protocols of independent laboratories in effect, but must ensure that final rule incorporates the most current scientific/technological standards.					
11	103	Tracking Labels for Products for Children	3.2	\$374	\$10	\$94	1.5 compliance monitoring, including internet, 1.7 technical staff, \$10,000 contract costs.
		Amends Sec. 24 of FHSA to require tracking labels for products for children. Cautionary statements must be displayed on or immediately adjacent to any advertisement that provides a direct means of purchase including internet websites, catalogues or other distributed material. The requirement will be treated as a safety standard under CPSA Secs. 7 and 19. Also amends Sec. 14(a) of the CPSA to require a manufacturer to place distinguishing marks on a product/packaging at Commission's discretion after a rulemaking effective 1 year after enactment; adds conforming language to Sec. 14(c).					
12	208	Substantial Product Hazard Reporting Requirement	3.0	\$351	\$0	\$88	1 compliance staff, 2 attorneys
		Amends reporting requirement of Sec. 15(b) by striking "consumer product distributed in commerce" and inserting "consumer product", over which the Commission has jurisdiction under this or any other Act.					
13	209	Corrective Action Plans (CAPs)	5.2	\$608	\$0	\$152	2 compliance staff, 1 attorney, 2.2 technical staff
		Amends Sec. 15(d) by inserting new language on CAPs: allows Commission to issue 15(d) Order (CAP) specifying remedies when Commission determines action is in the public interest; requires Commission approval of CAP in writing; allows Commission to change Order on CAP or require amendment to CAP when not effective or if infractor/distributor is not effectively executing approved CAP. Approval of CAP would be revoked by Commission after notice and comment when Commission determined infractor/distributor/retailer failed to comply substantially with CAP obligations.					

SS	HS	Title	Costs (dollars in thousands) for First Year (2009)					Comment
			FTEs	S&B ²	Other Costs ³	Indirect Costs ³	Total	
14	212	Identification of Manufacturer by Importers, Retailers and Distributors	Senate Provision Amends Sec. 16 to require every importer, retailer or distributor of a consumer product under CPSC jurisdiction to identify the manufacturer of the product and manufacturer to identify retailers, distributors, subcontractors, upon request by officer or employee of CPSC.					
15	213	Prohibited Acts	6.0	\$702	\$0	\$176	\$878	3 compliance staff, 3 attorneys
	214							
16	215	Penalties	9.1	\$1,065	\$125	\$266	\$1,456	2 compliance staff, 6.5 attorneys; 6 technical staff; \$25,000 travel; \$100,000 litigation support. (Note the Department of Justice may incur increased litigation costs to support civil penalty actions).
	216							
17	218	Preemption	Amends CPSCA, FHSA, FFA, PPPA to prohibit the expansion or contraction of the preemption provisions of those acts.					

SS	HJ	Title	Costs (dollars in thousands) for First Year (2009)					Comment
			FTEs	S&B ¹	Other Costs ²	Indirect Costs ³	Total	
18	219	Sharing of Information with Federal, State, Local, and Foreign Governments	3.0	\$351	\$0	\$88	\$439	2 compliance staff; 1 International staff
		<p>Adds subsection (f) to CPSC Sec 29 that would allow the Commission to: Give any CPSC Sec. 6 information to any federal, state, local, or foreign government agency (including multinationals) that certifies it has authority to keep the information confidential and the info will be used only for consumer product safety law enforcement purposes. Info cannot be given to foreign governments that support terrorism. Can only be given to foreign governments for criminal enforcement if offense covered by a U.S./foreign government treaty. Prohibits CPSC from disclosing information obtained from a foreign government agency or other foreign source (including multinationals) if confidentiality requested, except to Congress or in response to an order of a U.S. court in a legal action commenced by the Commission or the U.S.</p>						
19		Financial responsibility	2.5	\$293	\$0	\$73	\$366	2 attorneys, 5 technical staff
		<p>Adds a new CPSC Sec 39 to allow the Commission by rule to require posting of an escrow, proof of insurance, or security acceptable to the Commission by a person who has committed multiple violations of any Act enforced by the Commission: the manufacturer or distributor of a category or class of consumer products, the manufacturer or distributor of any consumer product or any product or substance regulated under any Act enforced by the Commission. The escrow, proof of insurance, or security required by the Commission shall be in an amount sufficient to cover the cost of a recall or any product or substance or the costs of holding the product and the destruction of product if required by the Commission.</p>						
20	217	Enforcement by State attorneys general	4.5	\$527	\$0	\$132	\$658	2 attorneys; 2.5 technical staff
		<p>Adds new CPSC Sec 26A that would: Allow a state attorney general to bring an action to obtain injunctive relief in federal court if state believes "interests of residents have been adversely affected" by a violation of any consumer product safety rule, regulation, standard, certification or labeling requirement, or order prescribed under any act enforced by the Commission including sale of recalled products or banned hazardous substances. Prevailing state can recover attorney's fees and costs from defendant. State must give 60 days prior notice of filing to CPSC, "if feasible." CPSC can intervene and/or appeal the decision. Nationwide service of process, liberal joinder.</p>						

		Costs (dollars in thousands) for First Year (2009)							
		FTEs		Other Costs ³		Indirect Costs ³		Total	
		S&B ²		Total		Total		Comment	
		Senate Provision		Total		Total		Comment	
21	HS	Whistleblower Protections	Adds a new CPSC Sec.40 that creates an entire new program whereby the Department of Labor is responsible for protecting employees of manufacturers, private labelers, distributors, retailers, and Federal, state or local government agencies, who provide information to their employer or the state or federal government concerning violations of any law enforceable by the Commission, who testify or assist in any proceeding related to the alleged violation, or refuse to work on a project they believe to be violative of law or policy. The Department of Labor is responsible for the administration of this program. This program includes investigating and adjudicating whistleblower complaints of retrubutions, with relief that could include reinstatement and compensation including back pay as well as compensatory damages. Remedies for federal employees limited to those in existing law. If a complaint is found to be frivolous, the Commission may award "reasonable attorney fees, not exceeding \$1,000,000" to the employer	2.0	\$234	\$0	\$59	\$293	2 attorneys
22	101	Ban on Children's Products Containing Lead; Lead Paint Rule	Beginning 1 year after enactment, any children's product containing lead is defined as a banned hazardous substance under the FHSA. A children's product is considered to contain lead if any part of the product contains greater than 0.03 % by weight of the total weight. 3 years after the date of enactment 0.01 % will be substituted for 0.03 % unless the Commission determines it is not technologically feasible. The Commission must reduce the number below 0.03 % even if 0.01 % is not feasible. Electronic devices, including batteries, may be addressed via a separate CPSC rulemaking. Lead Crystal may be addressed separately after notice and hearing to determine whether it should be exempt. 1 year after enactment the paint standard for all products shall be lowered from 0.06 to 0.009 %.	9.0	\$1,053	\$340	\$263	\$1,656	6 technical staff; 1 attorney; 2 compliance staff; \$340,000 in contract funds
23	101	Alternatives measures of Lead content	CPSC, the National Academy of Sciences and NIST would study the feasibility of establishing a measurement for lead on a unit-of-mass-per-area standard that would be statistically comparable to PPM measurement standard currently used in laboratory analysis.	1.5	\$176	\$175	\$44	\$394	1.5 technical staff and \$175,000 for contract support
24	106	Study of preventable injuries and deaths of minority children related to certain consumer products.	GAO will conduct study to assess disparities in the risks and incidence of preventable injuries and deaths among children of minority populations. Not later than 1 year after enactment GAO shall report the findings to the Senate and House commerce committees.	1.3	\$152	\$0	\$38	\$190	1.3 technical staff
25		Cost-Benefit Analysis under the PPPA	Amend Sec. 3 of the PPPA. Commission is not required to prepare a cost/benefit analysis.						

			Costs (dollars in thousands) for First Year (2009)					Comment
S#	H#	Title	Senate Provision	FTEs	S&B ¹ Costs ²	Other Costs ³		
						Indirect	Total	
26	220	Inspector General Reports	IG is required to conduct reviews and audits assessing the Commission's ability to enforce: the new third party certification provisions for children's product including the ability to prohibit importation of children's products without third party testing; tracking labels for children's products; an audit of the Commission's capital improvement efforts, including construction of a new testing facility. The IG shall submit an annual report for fiscal years 2009 through 2015 on the above reviews to the Commission, and the Senate and House commerce committees. Within 1 year of enactment the IG shall conduct a review of: complaints received by the IG from Commission employees about violations of rules or regulations enforced by the Commission; the process by which corrective action plans are negotiated with such employees by the Commission; the IG will submit a report setting forth the IG's findings, conclusions, and recommendations regarding the aforementioned review of complaints to the Commission and the Senate and House commerce committees.	5.5	\$644	\$0	\$161	\$804 2.5 auditors; 5 technical staff; .5 attorney; 2 compliance staff
26	220	Continued	Within 1 year after enactment the IG will conduct a review of unauthorized releases of information by employees of the Commission to persons regulated by the Commission and shall submit a report detailing the findings, conclusions, and recommendations regarding the review to the Commission, and the Senate and House commerce committees					See above.
27	220	Public Internet Website Links	Within 30 days of enactment the Commission shall establish and maintain a link on the Commission's website to the IG's website, and a mechanism on the IG's website by which individuals may anonymously report cases of waste, fraud, or abuse with respect to the Commission.					Completed
28		Child-resistant portable gasoline containers	Establishes ASTM standard F2517-05 as a consumer product safety rule effective 6 months after enactment. Within 2 years after enactment the Commission shall submit to the Senate and House commerce committees a report on: the degree of industry compliance with the new rule, an enforcement actions brought by the Commission to enforce the new rule, and incidents involving children interacting with portable gasoline containers	3.5	\$410	\$10	\$102	\$522 3 technical staff (1.5 for standard work and 1.5 for report work), .5 compliance staff, \$10,000 for contract costs.
29	107	Toy Safety Standard	Establishes ASTM standard F963-07 as a consumer product safety rule effective 60 days after enactment. Revised standard is considered to be product safety rule under Sec. 9 of the CPSA effective 30 days after notification of the revision unless the Commission notifies ASTM within 60 days after notice that the proposed revision does not improve safety.	7.0	\$819	\$100	\$205	\$1,124 1 attorney; 4 technical staff; 2 compliance staff, and \$100,000 for testing.

		Costs (dollars in thousands) for First Year (2009)						Comment
		Other		Indirect			Total	
		S&B ¹	Costs ²	Costs ³				
S#	H#	Title	Senate Provision	FTEs	S&B ¹	Costs ²		
30		All-terrain vehicle safety standard	Within 90 days of enactment the Commission shall publish ANSI/SVIA-1-2007 in FR as mandatory consumer product safety rule. The standard shall take effect 150 days after publication. When standard takes effect unlawful to import/distribute in commerce non-complying ATV or ATV not subject to ATV action plan approved by Commission. If the standard is revised, the Commission must issue a NPR within 120 days after it receives notice of such revision and promulgate an amendment within 180 days after the date of FR publication of the NPR. Three wheelers banned until there is a mandatory standard for them. The GAO shall conduct a study of the utility, recreational, and other benefits of all-terrain vehicles and the cost associated with ATVs related accidents and injuries.	6.0	\$702	\$400	\$1,278	2 technical staff; 2 attorneys; 2 compliance staff and \$400,000 for samples, testing.
31		Garage door opener standard	All automatic garage door openers shall include an external secondary entrapment protection device within 6 months after enactment. Certain existing designs grandfathered. The Commission shall review its standard within 1 year of enactment.	2.0	\$228	\$10	\$237	1.7 technical staff; 25 compliance staff; \$10,000 for contract costs
32		Reducing deaths and injuries from carbon monoxide poisoning (generator rulemaking)	Commission shall issue a final rule for the "Portable Generator" rulemaking within 18 months after enactment. No waiver of findings requirements. Within 120 days after enactment the Commission shall submit a report to the Senate commerce committee that reviews the effectiveness of its labeling requirements for charcoal briquettes (16 C.F.R. 1500.14(b)(6)) during the windstorm that struck the Pacific Northwest beginning in Dec. 2006; that identifies any specific challenges faced by non-English speaking populations with the use of the current standards, and contains recommendations for improving labels on charcoal briquettes.	11.7	\$1,369	\$400	\$342	9.7 technical staff; 1 attorney; 1 compliance staff; and \$400,000 for testing.
33		Completion of cigarette lighter rulemaking	Commission shall issue a final rule mandating general safety standards for cigarette lighters under our ongoing lighter rulemaking within 24 months after enactment. No waiver of findings requirements.	4.0	\$468	\$0	\$117	1.5 attorney; 2 technical staff; 5 compliance staff.

		Costs (dollars in thousands) for First Year (2009)					Comment
S#	H#	Title	Senate Provision	FTEs	S&B ¹	Other Costs ²	
						Indirect Costs ³	Total
34	104	Consumer product registration forms and Standards for Durable Infant or Toddler Products	Commission shall (a) examine with consumer groups, manufacturers, experts on the effectiveness of any voluntary consumer product safety standard for durable infant or toddler products and (b) promulgate safety rules that are substantially the same as voluntary standards or more stringent if necessary. Commercial users of cribs are required to comply with these standards. No later than one year after enactment, the Commission must commence rulemaking and promulgate rules for no fewer than 2 categories of durable infant products every 6 months thereafter until standards are promulgated for all such products. Thereafter, the Commission shall periodically review and revise the rules to ensure the highest level of safety feasible. Commission shall promulgate final consumer product safety rule that requires registration forms for durable infant or toddler products within 1 year of enactment. Within 4 years of enactment the Commission shall conduct a study on the effectiveness of the rules promulgated for product registration in facilitating recalls;	6.1	\$714	\$15	\$907
			submit to Congress a report on the findings of the Commission with the above study				\$15,000 for contract compliance staff; 1 attorney; 2 technical staff; 3 compliance staff; 1 attorney; 2 technical staff.
35	221	Repeal	Amends Sec. 30(d) of CPSA by striking it entirely. That section required Commission to address a risk under the FISA, PFPFA or FPA unless the Commission determined by rule, that it was in the public interest to act under CPSA.				See above.
36		CPSC presence at national targeting center of U.S. CBP	Within 6 months of enactment CPSC shall enter into a MOU with Department of Homeland Security for the assignment of not less than 1 FTE to work at the National Targeting Center of CBP.	3.0	\$351	\$0	\$439
37		Development of risk assessment methodology to identify shipments of consumer products that are likely to contain consumer products in violation of safety standards	Within 1 year of enactment the Commission shall develop a risk assessment methodology for identification of shipments of consumer products that are intended for import and are likely to include consumer products that would be refused admission into such customs territory. The methodology developed should as far as is practicable use the International Trade Data System to evaluate and assess information about shipments of products intended for import to the U.S.	1.0	\$117	\$29	\$10,146
			Within 6 months after the date of enactment CPSC shall publish a list of product defects that constitute a substantial product hazard. CPSC shall, as it considers appropriate, update the above list and provide a copy to the Dept. of Homeland Security. Homeland Security shall ensure the destruction of any product refused unless such product is exported within 90 days of notice of such refusal.	11.5	\$1,346	\$0	\$1,682
38		Seizure and destruction of imported products in violation of consumer product safety standards					\$10 million contract startup cost to design the system; 1 technical staff. Beginning in 2010, there will be substantial recurring operating costs.
							2 import surveillance staff; 4 attorneys; 3 compliance staff; 2.5 technical staff.

		Costs (dollars in thousands) for First Year (2009)						
		Title	Senate Provision	FTEs	Other		Total	Comment
SS	HS				Costs ²	S&B ¹		
39	212	Database of manufacturing facilities and suppliers involved in violations of consumer product safety standards	If CPSC discovers that a violation of a consumer product safety rule was the result of an act or omission by a manufacturing facility or supplier, the Commission shall document the date the violation occurred, description of the violation and the circumstance that led to the violation; details of the act or omissions; identifying information about the manufacturing facility or supplier including the name and address of such manufacturing facility or supplier. CPSC shall establish and maintain a database that contains the above information as well as any comments by the manufacturing facility or supplier regarding any violation included in the database. CPSC is required to make the database available to CBP in real time	3.0	\$0	\$351	\$88	\$439.3 Compliance and import surveillance staff. Other resources accounted for under Section 37
40		Ban on Certain Products Containing Phthalates	Effective 1/1/09, children's product/article containing a specified phthalate is a banned hazardous substance under the FHSA. Manufacturers may not use prohibited alternatives to specified phthalates.	6.7	\$5	\$784	\$196	\$985.4.2 technical staff; 1.5 attorneys, 1 compliance staff; \$5,000 for testing
41		Equestrian Helmets	Within 9 months of enactment, equestrian helmets must meet an interim standard ASTM F 1163, within 60 days of enactment, CPSC will begin a proceeding to establish a final standard to take effect not later than 1 year after the date it is issued	3.0	\$5	\$351	\$88	\$444.2.5 technical staff; .25 attorney; .25 compliance staff; \$5,000 for testing
42		Requirements for Recall Notices	Amend Sec. 15 to provide that the Commission may order the manufacturer, distributor, retailer to distribute notice of any action taken against the manufacturer under Sec. 15(d) to the public. Not later than 1 year after enactment, the Commission may make available to the public progress reports and incident updates regarding Sec. 15(d) action plans, statistics on injuries and deaths on substantial product hazards; number and type of communication from consumers on each product action is taken under Sec. 15(d).	0.5	\$0	\$59	\$15	\$73.5 compliance staff.
43	224	Study and Report on Effectiveness of Authorities Relating to Safety of Imported Consumer Products	Not later than 180 days after enactment, the Comptroller General shall conduct a study of the effectiveness of the authorities and provisions of CPSC in stopping unsafe imports; develop a plan to improve effectiveness of CPSC in stopping unsafe imports; submit a report to Congress of the findings.	0.5	\$0	\$59	\$15	\$73.5 compliance staff

S#	H#	Title	Senate Provision	Costs (dollars in thousands) for First Year (2009)					Comment
				FTEs	S&B ¹ Costs ²	Other Costs ²	Indirect Costs ³	Total	
44		Ban on Importation of Toys Made by Certain Manufacturers	Amends Sec. 17 to revise importation of toys classified under headings 9503, 9504, 9505 of the Harmonized Tariff Schedule manufactured by a company with a persistent pattern of manufacturing toys constituting substantial product hazards or toys that present a risk of injury of such magnitude that a permanent ban is justified. The Commission is required to submit information on such manufacturer to Homeland Security. Not later than 3/31 each year, the Commission shall submit an annual report to Congress on toys so classified offered for importation and found in violation of a safety standard and the manufacturers, by name and country.	3.0	\$351	\$0	\$88	\$439	1 compliance staff; 1 import surveillance staff; 1 attorney
45		Consumer Product Safety Standards Use of Formaldehyde in Textile and Apparel Articles	Not later than 2 years after enactment, the Commission shall conduct a study on the use of formaldehyde in the manufacture of textile and apparel articles, or in any component.	3.15	\$369	0	\$92	\$461	2.4 technical staff; .25 attorney; .5 compliance staff
		Grand Total		167.7	\$19,857	\$32,525	\$4,964	\$57,347	
		1/ Average salary + benefits of \$17,000 for 2008, excluding Commissioners' offices who were priced based on costs specific to their offices.							
		2/ Costs such as travel and contract support.							
		3/ 25% of salary and benefit costs for space, IT support, printing, supplies, equipment, and administrative support							



U.S. Consumer Product Safety Commission

Public Database of Incidents

Preliminary Business Case

Purpose of Document

This document defines the project in terms of its purpose, mission requirements, a proposed solution, time schedule, estimated cost, and expected benefits.

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1.0 Project Purpose

The purpose of the project is to build a single, integrated web based environment to accommodate a searchable database for consumers; to enhance the efficiency and effectiveness of CPSC staff's consumer product safety work; and to enable a more rapid dissemination of information. This project will be done in two phases and will take a total of three years for full implementation.

2.0 Background and Business Process

The CPSC annually receives hundreds of thousands of consumer product safety complaints and incident reports from multiple sources. The agency's information sources include the National Electronic Injury Surveillance System (NEISS), the CPSC Hotline (toll free 800 number), news clippings, death notices purchased from the states, written complaints, incidents reported to CPSC's Website, the National Fire Incident Reporting System (NFIRS), medical examiner reports, and others.

Data received by the CPSC is currently coded into broad areas related to product type and hazard type, and depending on the source and intended use of this information, it is subsequently filed into one of multiple, disconnected databases managed by CPSC staff. Because these systems are not connected, users are unable to use efficient web-based applications to run comprehensive searches of the agency's data.

3.0 Objectives

The objectives of the project are:

- Enhance the ability to search and retrieve CPSC's incident and complaint data.
- Provide a real-time view of CPSC incident data to the public.
- Improve the collection and processing of incident information.
- Increase the amount of information that is readily accessible by the public.
- Upgrade data analysis and assessment.
- Improve the management of investigations and corrective actions related to recalls.

4.0 Solution

The current solution envisions creating a new application to handle data collection for CPSC. To do this we propose breaking the project into two distinct phases. While Phase I will accomplish initial requirements in twelve months, it will take three years to complete the project.

4.1 Phase I (Core Technology for Reporting, Storing and Searching Incidents)

This phase will develop and execute the core technology needed to consolidate the reporting, storing, and searching of new complaint and incident data received by the CPSC. This phase will not involve purging existing data or linking incident data, investigations and recalls. The data included in the public internet search will include only incidents where the complainant gives

permission for the information to be released publicly. This technology will provide the tools needed to provide document-based information to the public, while protecting personally identifiable information or other sensitive data. This phase will involve initial integration of the disparate databases involved in the collection of incident data into a centralized data collection system.

4.1.1 In Scope

The application at this phase will provide the following features:

- The application shall provide a web-based system to receive and process injury and potential injury incident reports only (not NEISS reports).
- The application shall categorize the information in a manner determined by the Commission to be of the most benefit and ease of use to consumers.
- The application shall process reports and make them available no later than 15 days after the date on which they are received.
- The application shall provide the ability for manufacturers to provide comments on incidents related to their product.

4.2 Phase II (Connecting Incidents, Investigations, and Recalls)

4.2.1 In Scope

This phase would involve upgrading legacy systems and integrating existing databases with the new reporting system developed in Phase I. It would integrate the multiple systems currently used for management of investigations, compliance activities, and recalls. This will also provide the improvements needed for the database requested in Section 39 (Violations Database) of the Senate version of the reauthorization legislation if it were enacted into law. Existing data will be migrated.

4.2.2 Out of Scope

This phase does not include integration with the International Trade Data System (ITDS) for the purposes defined in Sections 37 (Risk Assessment) and Section 39 of the Senate version; however, the core technologies developed and implemented by this project are necessary to carry out these provisions.

4.3 Development Process

The project will be developed using a System Development Life-Cycle (SDLC) business process. This process is broken down into 7 distinct processes. They are as follows:

- *Planning: This phase defines the project to be developed, the scope of the project, and the plan to execute the project.*
- *Analysis: Business requirements are developed and formalized.*

- *Design: Development of the system blueprint underlying technical architecture and associated technologies.*
- *Development: Building of the technical architecture and databases.*
- *Testing: System functionality and performance testing measured by business requirements.*
- *Deployment: User training and user guide development.*
- *Maintenance: System support and help desk operations.*

5.0 Schedule

The project schedule is broken down into the 2 project phases. For the two project phases milestones and target dates are estimated for each SDLC process. The milestones and target dates are preliminary and will require further refinement through detailed project planning. Because much of the necessary work will be performed under contract, the dates are from the start of the contract and do not account for acquisition time.

Phase I (Core Technology for Reporting, Storing, and Searching Incidents)

<i>Milestone</i>	<i>Estimated Time</i>
Initiation of Project Planning	2 months
Development of Requirements	2 months
Detailed Design	3 months
Build	4 months
Implementation	1 month
Total	12 months

Phase II (Connecting Incidents, Investigations, and Recalls)

<i>Milestone</i>	<i>Estimated Time</i>
Initiation of Project Planning	3 months
Development of Requirements	4 months
Detailed Design	4 months
Build	8 months
Implementation	1 month
Total	24 months

6.0 Issues and Constraints (Risk)

Issues and constraints that could impact project success include:

- Estimated cost may be low due to insufficient detailed analysis.
- Existing incident data needs to be purged of Privacy Act protected data.
- No unique product identification number or system.
- No unique manufacturer identification system.
- NEISS hospital data may require a separate system to distinguish statistically weighted data compared to newly received data. This may require significant changes to the way the NEISS data is managed.
- Manufacturers and consumers may be required to register with the system to provide feedback and correction on the incident information.

7.0 Links and Dependencies

System development is subject to appropriations.

System development is dependent on core technology building blocks identified in CPSC's Enterprise Architecture.

Requirements in Section 37 (Risk Analysis) and 39 (Violations Database) will build upon core building blocks implemented in this project.

8.0 Budget

The following tables are an estimate of the cost to implement each phase of the project:

Summary of Estimated Cost

	Startup Cost	Annual Operating Cost
Phase 1	\$9.4 million	\$2.9 million
Phase 2	\$10.1 million	\$3.1 million
Total	\$19.5 million	\$6.0 million

Phase I	Current FY	Current FY +1	TOTAL
Planning & Acquisition:			
Hardware	\$ 200,000		\$ 200,000
Software	\$ 800,000		\$ 800,000
Security	\$ 200,000		\$ 200,000
Programing Services Contracts	\$ 7,500,000		\$ 7,500,000
Training	\$ 200,000		\$ 200,000
Risk and Other	\$ 500,000		\$ 500,000
Government FTE Costs ¹			\$ -
Subtotal Planning & Acquisition:	\$ 9,400,000	\$ -	\$ 9,400,000
Operations & Maintenance			
Hardware (15%)		\$ 30,000	\$ 30,000
Software (15%)		\$ 120,000	\$ 120,000
Security (15%)		\$ 30,000	\$ 30,000
Services Contracts (15%)		\$ 1,125,000	\$ 1,125,000
Facilities (Power, Cooling, Bandwidth 5%)		\$ 50,000	\$ 50,000
Risk and Other		\$ 100,000	\$ 100,000
Government FTE Costs		\$ 1,508,000	\$ 1,508,000
Subtotal O&M:	\$ -	\$ 2,963,000	\$ 2,963,000
IT INVESTMENT TOTAL COST	\$ 9,400,000	\$ 2,963,000	\$ 12,363,000
Required contract funds	\$ 9,400,000	\$ 1,455,000	\$ 10,855,000
Government FTE Costs	\$ -	\$ 1,508,000	\$ 1,508,000

CPSC Staff Addition

Position	FTE
Database Administration	1
Project Manager	1
IT Analyst	1
Technical Information Specialist (Clearing House)	5
Epidemiology Staff	5
Total CPSC Staff Cost	13

Phase II	Current FY	Current FY +1	TOTAL
Planning & Acquisition:			
Hardware	\$ 200,000	\$ 200,000	\$ 400,000
Software	\$ 400,000	\$ 400,000	\$ 800,000
Security	\$ 50,000	\$ 50,000	\$ 100,000
Programming Services Contracts	\$ 7,500,000	\$ 500,000	\$ 8,000,000
Training	\$ 10,000	\$ 40,000	\$ 50,000
Risk and Other	\$ 500,000	\$ 250,000	\$ 750,000
Government FTE Costs ¹			\$ -
Subtotal Planning & Acquisition:	\$ 8,660,000	\$ 1,440,000	\$10,100,000
Operations & Maintenance			
Hardware (15%)	\$ 30,000	\$ 60,000	\$ 60,000
Software (15%)	\$ 60,000	\$ 120,000	\$ 180,000
Security (15%)	\$ 7,500	\$ 15,000	\$ 22,500
Services Contracts (15%)	\$ 1,125,000	\$ 1,200,000	\$ 2,325,000
Facilities (Power, Cooling, Bandwidth 5%)	\$ 30,000	\$ 60,000	\$ 90,000
Risk and Other	\$ 200,000	\$ 200,000	\$ 400,000
Government FTE Costs ¹			\$ -
Subtotal O&M:	\$ 1,452,500	\$ 1,655,000	\$ 3,107,500
IT INVESTMENT TOTAL COST	\$10,112,500	\$ 3,095,000	\$13,207,500
Required contract funds	\$10,112,500	\$ 3,095,000	\$13,207,500
Government FTE Costs	\$ -	\$ -	\$ -

¹No New FTEs, Assumes Phase 1 FTE staffing

2. Implementation of the reauthorization. While the final version of the reauthorization bill is still pending, the CPSC should be thinking about how new responsibilities and requirements will be implemented.

- **What criteria will you use to prioritize your increased responsibilities under the reauthorization?**

RESPONSE: The priorities of the proposed reauthorization bills are generally stated in the legislation in the form of deadlines. CPSC staff has outlined those requirements and estimated the resources that would be required to meet those deadlines (copy of staff document attached). In the Senate proposal, staff has identified 36 such deadlines. While the agency will have to shift resources from some current safety activities to meet these deadlines, I am determined to continue to move forward on the agency's important rulemaking priorities, for example, that on an upholstered furniture flammability standard.

It should also be noted that the Commission has an established policy on setting priorities for agency action that includes as a requirement a majority vote by the Commission. Other criteria include the frequency and severity of injuries; unforeseen nature of the risk; the vulnerability of the population at risk; the probability of exposure; and the amenability of a product hazard to injury reduction through Commission action.

- **Will the Commission look to the work of other Federal agencies as a model in order to make changes as efficiently as possible? For example, in creating a public database of consumer product complaints, will the Commission look to the database created by the National Highway Traffic Safety Administration (NHTSA)?**

RESPONSE: CPSC staff is in contact with a number of other federal agencies, including NHTSA, the Federal Trade Commission, and the Food and Drug Administration. With specific regard to the database, it is important to recognize that CPSC's requirements would be unique for a number of reasons, not the least of which is the fact that the agency has jurisdiction over 15,000 types of consumer products that are usually not well-defined by model, source, components, and year as compared with the far fewer automobile manufacturers and models under NHTSA's jurisdiction. For example, in just one of our databases (Injury and Potential Injury Incidents) there are references to over 200,000 separate manufacturers.

The thousands of complaints that the CPSC receives annually from consumers generally do not include sufficient information to allow specific identification of a product. In addition to misidentifying products, individual complaints often relate to questions of quality rather than safety, may be fraudulent submissions by competitors, may relate to product misuse rather than a defect, and in many other ways may result in consumers making an erroneous assessment of whether a product is harmful.

▪ **What other guidance would the CPSC seek as it sets up this database?**

RESPONSE: The CPSC is also in contact with private sector companies that may be helpful to the agency in developing a plan to establish a database. The CPSC currently has several distinct data systems that do not effectively communicate with each other or record or store information in similar ways. The CPSC would need to engage outside contractors to assist with revamping our information technology infrastructure and consolidating all of these separate data systems into one efficient, overarching system that could absorb data from the numerous disparate systems in a way that is useful to consumers and CPSC staff.

3. Commission quorum. The Commission has been without a third member since 2006, and it has operated during parts of that period with temporary authority to constitute a quorum with two commissioners. The latest temporary extension of a two-person quorum expired in early February. Without a quorum, the commission cannot conduct rulemaking, assess civil penalties, or force mandatory recalls.

▪ **How constrained is the CPSC in performing its duties while it is without a quorum?**

RESPONSE: Because this is not a new situation for us, the Commission can plan the agency's activities to meet this circumstance. As it has done in the past when the quorum has been lost, the Commission (on February 1, 2008) delegated specific and general authorities to CPSC senior staff so that the day-to-day business of the agency continues without interruption.

▪ **At what point does the situation become a crisis because the CPSC can't perform its mission to keep dangerous products off the market?**

RESPONSE: As noted above, CPSC staff continues to do previously approved work on rulemakings, compliance activities and public education in the absence of a

quorum. However, the longer the Commission continues without a quorum, there may be negative consequences, including the inability to issue final rules, and to issue subpoenas. The restoration of the quorum should be a priority.

4. New Laboratory. Funds were available in fiscal years 2007 and 2008, and are requested in fiscal year 2009, for the modernization of the CPSC's product testing laboratory. You each mention in your testimony that you are well on your way toward acquiring a new laboratory facility.

- **As you know, this subcommittee also has jurisdiction over GSA, and we would want to support both agencies in this effort. What is the status of your work with GSA to locate and acquire a new laboratory facility? Has a new location been identified?**

RESPONSE: GSA's Solicitation for Offers for lease space that would accommodate CPSC's laboratory needs was published on February 19, 2008, and the closing date for initial offers was March 21, 2008. According to GSA, the due date for best and final offers is dependent upon the number of offers received, as GSA requires time to negotiate with each offeror. GSA's estimate is for an August 2008 completion of this phase. GSA could then proceed to a lease award in fiscal year 2009. Any support that the subcommittee can give to GSA to complete this process in as timely a manner as possible would be helpful toward that end.

- **Does your FY 2009 request for \$6 million fully fund all costs related to the transition to a new facility?**

RESPONSE: Based on GSA estimates, as of December 2007, the \$6 million estimate for fiscal year 2009 should complete the funding of all costs related to the transition to a new facility. The \$6 million is estimated to cover final space configuration costs, and equipment and moving costs. OMB has requested language in the appropriate legislative vehicle to make the \$6 million available until September 30, 2011, to accommodate any delays encountered and to allow for adjustments in either space configuration or equipment if needed after occupancy.

- **What is your best estimate of when the CPSC would be able to move into the new facility?**

RESPONSE: CPSC staff estimates that we would be able to move the laboratory into the new facility in the spring of 2009 unless build-out is required. In that case, the move-in date would be late 2009.

5. Imported toys with lead. One of the significant concerns raised in recent months about the safety of imported products, and in particular products from China, relates to hazardous levels of lead paint on toys.

- **What commitments have been made by the Chinese government and manufacturers to stop exporting toys with lead paint to the United States?**

RESPONSE: First, I have to stress that the CPSC cannot and does not rely on the Chinese government to enforce U.S. laws. The CPSC enforces U.S. laws with appropriate American firms. That said, the Peoples' Republic of China (PRC) offered to use its export control systems to improve the conformance of Chinese-made products with U.S. safety standards. Specifically, we identified lead paint on toys as a significant problem and they agreed to address that with specific efforts. To date we are aware that:

- The PRC has reported to us that it has inspected thousands of factories and revoked hundreds of export licenses for lead paint violations.
- The Chinese government has stated to us that no export permit is granted for a painted toy unless the paint on the toy came from an approved lead-free suppliers list.
- The PRC has sponsored numerous high-profile standards and compliance seminars aimed at getting the product safety message to Chinese manufacturers. CPSC staff participated in one of these seminars in November.
- CPSC staff have observed that the Chinese government shows an increased interest in promoting industry best practices for compliance assurance, compared to simply increasing its factory inspections.

Regardless, nothing the Chinese government promises and no amount of export control inspection can take the place of major systemic changes in Chinese manufacturing. We are working with Chinese suppliers to hasten that change, but it is the U.S. importer that must ensure that its product complies with U.S. laws.

- **Are U.S.-based importers committed to taking actions that will prevent such products from entering the United States?**

RESPONSE: Throughout its history, the CPSC has striven, largely successfully, to build solid foundations and communications with all of our stakeholders from industry to increase conformance with applicable safety standards and to have safety

integrated into every step of the life cycle of a product. Over that time, U.S. importers have come to play an increasingly important role, obviously as the percentage of imports has increased. While it has been our experience that most importers do act responsibly, there are some that do not. Identifying, responding to, and tracking the bad actors is a challenge, and we are working very hard with U.S. Customs and Border Patrol, among others, to meet this challenge.

In a recent speech to the Toy Industry Association (TIA), I made it clear that we will not tolerate the toy industry, or any industry, not complying with CPSC's regulations. I applaud the goals of TIA's new safety assurance initiative to require improved product design hazard analysis, manufacturing process controls, and more product safety testing. CPSC staff is participating on the steering committee that is preparing recommendations for the TIA Board of Directors. While this is an important and laudable initiative, our job is to enforce the law, and we will do so whenever a violation is identified.

6. Toy industry safety efforts. Ms. Nord, in February, you made strong remarks directed to the toy industry regarding the need of that industry to better comply with CPSC's regulations and to take additional actions to meet higher safety standards, especially with respect to lead paint. However, at a hearing before the Senate Financial Services Appropriations Subcommittee in September, you reportedly "commended" the toy industry for its safety efforts.

- **Have your views on the adequacy of the toy industry's safety efforts changed in the last six months?**
- **What specific actions would you recommend the toy industry take to improve the safety of both imported and domestically-manufactured toys?**

RESPONSE: I have been publicly critical of the toy industry when I felt they deserved it and praised the industry when I thought appropriate. The past year has revealed some substantial weaknesses in specific toy companies' product safety and standards conformance systems, and to some extent, throughout the toy industry generally. The examples of the violations of our lead paint toy standards was the most prominent indication of this, and I continue to express to industry representatives in no uncertain terms that violations of this 30 year-old standard are unacceptable. But, consistent with the agency's typical approach to compliance matters, while we will strictly enforce the law and pursue appropriate remedies with firms in violation of the law, we likewise seek to assist and praise both industry

groups and individual firms that demonstrate significant, good faith efforts to comply with the law and to otherwise improve the safety of consumer products.

With respect to the toy industry specifically, I do believe that the awareness of, and efforts to address, product safety issues is more acute today than at any time in recent memory. Most significantly, the Toy Industry Association is right now working with the American National Standards Institute to develop and implement a possible conformance and safety analysis and assurance program, from product design to post-market activities. While this is a private sector effort, key CPSC personnel have been providing technical guidance as it has taken shape. While there has been no official Commission position or statement on this effort, I personally believe it could represent a significant step forward with regard to product safety, particularly as the effort seeks to involve all elements of the production and distribution chains. I have therefore recommended continuation of this initiative, with specific suggestions to ensure that the effort will be meaningful, with consequences for sub-par actions and systems. At the same time, as the Committee is aware, CPSC's Office of Compliance and Field Investigation has increased its efforts to both find and respond to a range of toy safety issues.

7. Toy Industry Association certification proposal. On February 16, 2008, the U.S. Toy Industry Association (TIA) approved a safety assurance program to require improved product hazard analysis, auditing, and testing of toys.

- **What are the CPSC's views on the adequacy of the TIA's proposal?**
- **Are there necessary areas of improvement the toy industry should consider but are not part of this proposal?**
- **Have the CPSC and TIA collaborated on these proposals?**

RESPONSE: While I applaud the goals of TIA's proposal and its initiative in moving forward with the safety assurance program, I have made it clear to them that we will not tolerate the toy industry, or any industry, not complying with CPSC's laws and regulations.

With regard to the proposal, CPSC staff has been participating on the steering committee that is preparing recommendations for the TIA Board of Directors. CPSC staff is currently reviewing public comments on the draft recommendations, and when this analysis is completed and revisions drafted, we will be in a better position to know if additional improvements are necessary.

8. Pending CPSC rules. A recent report released by Public Citizen criticized the CPSC for not completing work on seven pending rules relating to potentially hazardous products. The report notes that the average length of time the Commission has been studying the hazards relating to these rules is nearly a decade. The report also notes that studies of two areas relating to these rules – upholstered furniture flammability and baby bath seats that present a risk of drowning – have been occurring since 1994.

- **Please comment on the Public Citizen report. What are the reasons for these rules taking so long to complete?**

RESPONSE: As noted in the Public Citizen report, CPSC's statutes specify a number of requirements that must be met before the agency can issue a final rule. In general, these requirements specify three-part rulemaking, two public comment periods, and regulatory analyses, including cost-benefit analysis. In addition, the agency is prohibited from issuing a final rule if there is a voluntary standard in place that adequately addresses the hazard and there is likely to be substantial compliance with that standard.

The agency must also respond to substantive public comments, which can lead to the need to conduct complex research and testing. Each rulemaking activity is unique, and there are many different issues (including whether the CPSC has a quorum) that may affect the time that it takes to determine if a rule is technically feasible, is reasonably necessary, and meets cost-benefit and other statutory criteria. Information on a few examples from the Public Citizen report follow:

The **upholstered furniture** rulemaking activity has been exceptionally complex, with many diverse stake holders providing input into the process. Upholstered furniture components include such varied materials as cover fabrics, loose fillings, barriers, wood, plastic and resilient foams. Each reacts differently to open flame and smoldering ignitions. The components interact with each other during a fire depending on the materials involved and the construction and geometry of the product. In some cases, potential solutions that would mitigate open flame ignitions may not address, or could even reduce, the effectiveness of measures addressing smoldering ignitions and vice-versa. Solving these complex fire science problems has been critical to developing an effective standard that complies with the agency's governing statutes. Nonetheless, the CPSC has proposed a new flammability standard for residential upholstered furniture and published it in the Federal Register on March 4, 2008, for public comment. Finalization of this very important rulemaking is one of my, and the Commission's, highest priorities.

The rulemaking on **bedclothes** (e.g., quilts, blankets, bedspreads) flammability is closely related to the Commission's recently issued rule on open flame ignition of mattresses, a rule that when fully effective is estimated to prevent over 200 deaths each year. As we enforce the new rule that became effective on July 1, 2007, we gain important information that is relevant to bedclothes flammability. Before proceeding with the development of testing methodology and performance requirements related to bedclothes, CPSC staff will need to evaluate this critical data. It should also be noted that, like upholstered furniture, bedclothes (like quilts, comforters, etc.) vary enormously in the market, and so development of a single flammability standard would be a very difficult and complex undertaking.

The amendments to the **Clothing Textile Standard** are technical clarification and work was delayed so that CPSC's flammability experts could concentrate on the important mattress flammability standard (referred to above). This work is now complete and a final rule was published on March 25, 2008.

After the CPSC initiated a rulemaking activity on **baby bath seats**, the voluntary standard was revised so that it was essentially the same as the mandatory requirements proposed by the CPSC. As noted above, the Commission is prohibited from issuing a mandatory rule if there is a voluntary standard in place that adequately addresses the hazard and there is likely to be substantial compliance with that standard. In that regard, staff is monitoring and evaluating the adequacy of the revised standard and will prepare a formal briefing package for Commission consideration as to whether to continue rulemaking. In the interim, CPSC staff participation in the development of revisions to the voluntary standard has been ongoing and significant.

9. ATVs. Between 2000 and 2004, the ATV death rate for children increased 24 percent and the hospitalization rate increased 67 percent. Medical costs associated with child ATV accidents increased 196 percent to \$71 million in 2004. Studies indicate that ATV operators under 16 years of age are nearly four times more likely than ATV operators over 16 years of age to experience an injury requiring emergency medical treatment. Pediatricians and top medical organizations have given unequivocal warnings against children driving ATVs.

- **Do you have views on how old a child should be before he or she can operate an ATV?**

RESPONSE: It is important to distinguish between youth ATVs and adult ATVs when considering this question. Based on injury and death data which show that

the great majority of child injuries and fatalities occur when children drive or ride adult ATVs, CPSC staff warns that children under 16 years of age *not* drive *adult* ATVs. CPSC staff advises parents that children drive *youth* ATVs that are manufactured to have maximum speed capabilities as well as speed limiters. The speed limiters allow parents to reduce the ATV's maximum speed capability in order to meet the developmental capabilities of their children.

Based on child development information, CPSC staff proposed the following age and speed limitations in the Commission's August 10, 2006, Notice of Proposed Rulemaking (NPR).

CPSC's Proposed ATV Age and Speed Categories

Category	Age (yrs)	Max Speed Capability	Speed Limitation (Speed Limiter)
Junior	6+	≤10 miles per hour	None
Pre-Teen	9+	15 mph	10 mph
Teen	12+	30 mph	15 mph

CPSC staff also advises that youth who ride ATVs should be supervised at all times; be trained in a formal, hands-on training course; wear appropriate safety gear, especially a helmet; not drive on paved roads; not ride as a passenger or drive an ATV with a passenger; and not drive under the influence of drugs or alcohol.

- **Are there states that ban children younger than a certain age from operating ATVs? How many states have a ban?**

RESPONSE: As of February 2008, there were approximately 30 states that ban children younger than a certain age from operating ATVs. The Specialty Vehicle Institute of America (SVIA) gathers information about state ATV requirements. Their information indicates that the minimum age requirements range from 6 years to 18 years, with various qualifying provisions. For example, the requirements in some states apply only to public lands. Alternatively, in some states, the requirements apply unless the children are supervised or unless a safety certificate is possessed. The SVIA information is available at: <http://www.svia.org/asi.cfm?pagename=Media%20Information&content=FBFB3564%2D6097%2DA1D4%2D674F70E2F687FDBE&referer=Info%20Sheets> (click on "State Requirements".)

- **Would a national law banning children younger than a certain age from operating an ATV be effective in reducing the number of deaths and injuries we see each year?**

RESPONSE: CPSC staff believes that the risk of injury for children on *adult* ATVs is high, and the benefits of getting children off adult ATVs could be substantial. However, the effectiveness of a ban is unclear. A national ban on children younger than a certain age from operating an *adult* ATV would be effective only if:

1. the ban affected how ATVs are *used* after they are purchased, i.e., it prevented adults from allowing children to operate adult-size ATVs,
2. the ban affected the *use* of ATVs already in the hands of consumers, and
3. the ban was both enforceable and enforced.

The Commission does not have authority to issue such a ban; it would need to be legislated by Congress.

- **Does the CPSC agree with those in the medical community who have warned against young children operating ATVs?**

RESPONSE: As noted above, the CPSC strongly warns against the use of adult ATVs by children. In addition, through its media efforts and through its www.atvsafety.gov Web site, the CPSC also provides parents and caregivers with other essential safety information.

In the August 10, 2006, proposed rule, CPSC has taken steps to address the safety of youth ATV riding by proposing mechanical performance and design requirements for youth ATVs, information requirements (such as labeling and risk disclosure), and an offer-of-training requirement.

- **Some ATV manufacturers endorse a ban on child drivers under the age of 16 for personal watercrafts, such as jet skis. Does this imply that personal watercrafts are more dangerous for young children than powerful ATVs?**

RESPONSE: Personal watercraft are under the jurisdiction of the U.S Coast Guard, so the CPSC does not collect death or injury data associated with jet skis and has not conducted research on the product. Accordingly, CPSC staff is not positioned to form a judgment about the comparative risk of jet skis and ATVs.

10. Staffing. A critical factor in the effectiveness of CPSC's work is the number of full-time employees working at the Commission.

- **How many full-time employees are there currently at CPSC?**
- **What is your plan for hiring up to the planned 444 position level by October 1, 2008?**

RESPONSE: CPSC's full-time employee ceiling for fiscal year 2009 will be 439 (with 5 additional vacancies on hold for the Office of the Chairman pending the nomination and Senate confirmation of a Chairman). As of the date of this response, we have 392 full-time employees on board at the agency. We have 9 pending hires who have accepted offers for employment, and two of these are awaiting completion of the required clearance process. We have 21 vacancies where interviews are currently underway. As of today, we have 12 open vacancy announcements posted on the USA Jobs Web site. An additional 24 recruitment announcements are being prepared by our Office of Human Resource Management in conjunction with the program offices.

Hiring additional staff to bring us up to our FTE ceiling by October 1, 2008 will be a challenge for us to meet but is a top priority. We are utilizing all of the tools available to government agencies to find suitable candidates for our vacancies. Often, we can hire several people from one vacancy announcement. Our personnel specialists are working closely with program offices that have difficulty filling technical positions (such as experienced mathematical statisticians, engineers, psychologists and toxicologists) through advertisements in professional journals, open continuous vacancy announcements, and special hiring authorities such as the Intergovernmental Personnel Act (IPA). Additionally, we obtained approval from OPM to make offers to entry level staff at job fairs -- we are scheduled to be at the University of Maryland on April 7th.

11. Employee turnover. Many long-time, well qualified and knowledgeable CPSC staff have left the Agency.

- **What is CPSC doing to fill the gaps left by this brain drain?**

RESPONSE: More than most agencies, many CPSC employees joined the agency near the time of its inception (in 1973), and retirements are occurring as our workforce reaches retirement age. This presents the opportunity to promote or hire employees with new skill sets but it is also a challenge since we need especially skilled workers who are also in demand elsewhere in government and in the private

sector. The CPSC currently has a Human Resources assessment underway that is identifying the skills that technical staff will need to address the agency's new responsibilities and requirements. Additionally, the CPSC has internal training, mentoring and promotion incentives, and the agency is actively recruiting to hire new professionals in a number of scientific, legal and technical fields. Some of the recruitment strategies that we are using include:

- Entry level announcements with promotion potential to a higher grade;
- Automated email recruitment lists for targeted candidate pools;
- Outreach to veteran's organizations and professional societies;
- Job fairs;
- Open continuous announcements with certificates issued every 30 days for hard-to-fill positions;
- Acquisition reemployment of annuitants program for contract specialists;
- Federal Career Intern Program (FCIP);
- Excepted service appointment authority for attorneys.

Additionally, the CPSC has a number of recruitment tools available to attract a high quality, diverse workforce, including:

- Superior Qualifications – allows us to bring highly qualified, hard to recruit applicants into the government at a higher rate of pay based on their salary in private industry;
- Recruitment Bonuses – a monetary lump sum payment for applicants entering federal service;
- Relocation Bonuses – a monetary lump sum payment for federal employees who are willing to relocate to the CPSC;
- Student Loan Repayment Program – agency will repay student loans (max \$10K/year) for new employees for hard to recruit positions provided the employee signs a service agreement for 3 years;
- Annual Leave Service Credit – grant a newly appointed or reappointed employee credit for prior non-Federal or military service work experience that increases an employee's annual leave accrual rate;
- Special Rates of Pay – currently in place for Mathematical Statisticians, IT Specialists and Engineers at the lower grade levels (Grades 5-12);
- Telework Initiative – agency has active telework program that is marketed in vacancy announcements;
- Family Friendly Policies – alternative work schedules, flexible work hours, part-time employment, transit benefit program, and EAP services.

Questions Submitted for the RecordRep. Ralph RegulaMarch 11, 20081) China

According to CRS, last year China overtook Canada as the largest importer of goods into the United States. Additionally 4/5th of all CPSC recalls last year were of Chinese goods.

a) Could you discuss to what degree there exists a Chinese internal regulatory structure to guarantee the safety of exports to the U.S.?

RESPONSE: First, I have to stress that the CPSC does not rely on the Chinese government to enforce U.S. laws. The CPSC enforces U.S. laws with American importers. That said, the Peoples' Republic of China (PRC) offered to use its export quality control system to target Chinese-made products that would be recalled if they entered the United States. We identified lead paint on toys as a significant problem and they agreed to address that.

- The PRC says it has inspected thousands of factories and revoked hundreds of export licenses for lead paint violations.
- The Chinese government has stated that no export permit is granted for a painted toy unless the paint on the toy came from an approved lead-free suppliers list.
- The PRC has sponsored numerous high-profile standards and compliance seminars aimed at getting the product safety message to Chinese manufacturers. CPSC staff participated in one of these seminars in November.
- CPSC staff has noticed that the Chinese government shows an increased interest in promoting industry best practices for compliance assurance, compared to simply increasing its factory inspections.

The broader question of whether or not China has sufficient inherent regulatory capabilities is just not something that the CPSC is qualified to answer.

b) What improvements do you believe the Chinese must make to make our imports safer?

RESPONSE: Nothing the Chinese government promises and no amount of export control inspection can take the place of the needed major systemic changes in Chinese manufacturing. Every participant in the supply chain in China needs to be accountable for the quality and consistency of its product. Manufacturers and final assemblers need to understand the safety standards their finished goods must meet in the United States and they need to know the financial harm they can inflict upon themselves by contributing, knowingly or not, to a product hazard. CPSC staff is working with Chinese suppliers to hasten that change – and the strengthened certification provision in the pending reauthorization legislation provides us with an excellent tool.

c) How helpful has the Chinese government been in assisting the Commission during recalls of their exported goods?

RESPONSE: The Chinese government has shown a consistent interest in understanding the reasons for recalls and a willingness to pressure its industry to change practices to conform to our requirements. It has also, to our knowledge, undertaken actions in response to specific recalls and product safety issues, e.g., in revoking the business licenses and/or export licenses of Chinese firms involved with the various lead paint toy recalls.

d) How much of a role do you believe official and non-official corruption play in Chinese product safety issues?

RESPONSE: The CPSC rarely hears directly from U.S. companies in concrete terms on this topic. We lack sufficient first-hand information to provide a useful answer.

2) Authorization Legislation

Currently there are authorization bills in the House and Senate expanding CPSC's authority and funding. In terms of funding, could you actually spend all of the funding these bills propose to authorize? How large of an increase can the Commission absorb in any one year?

RESPONSE: The attached CPSC staff document estimates fiscal year 2009 funding and staffing requirements for each provision of the House and Senate versions of the reauthorization. While it is difficult to quantify a specific annual level of increase that the agency could absorb, the greatest challenge to the Commission in meeting the requirements of the reauthorization is the hiring of technical, scientific and legal staff needed to implement the new legislation. However, we are undertaking a number of recruitment activities to do just that.

3) Recall notification to American consumers

a) When your agency has recalls and public service announcement campaigns, do you purchase airtime or do you rely solely on donated time from the broadcasters?

RESPONSE: The CPSC uses only earned [free] media to promote recall announcements to the public. The agency has professional relationships with international wire services, network and local broadcast media, print journalists and network radio stations. Many media have developed a systematic approach to covering the agency's recall notices, whereas others conduct interviews with agency officials or use information from video news releases to produce local or national news stories.

The CPSC has produced public service announcements for issues such as ATV safety, drowning prevention, helmet safety and others. The competition is considerable for air time of PSAs on local stations. The CPSC has at times tried to secure air time by having its own staff contact TV and radio stations, and at other times has paid a

contractor to package and place the PSAs on local stations. The latter approach has been more successful for the agency.

b) Are you generally satisfied with the level and quality of donated time?

RESPONSE: Generally, the CPSC has been pleased with the return on investment as it relates to the cost and time dedicated to securing the airing of TV and radio PSAs. The CPSC also appreciates the time and space that broadcast stations and print media dedicate to running recall announcements.

c) What additional outreach and communications are necessary to inform the public of recalls of products that are dangerous?

RESPONSE: In addition to working with the media, the CPSC also disseminates recall announcements to hundreds of thousands of consumers, safety advocates, health professionals and others via an Internet listserv. The agency also shares information on high profile recalls and serious safety hazards with our 5,400 Neighborhood Safety Network members, who then pass the information on to tens of thousands of consumers within their communities.

The CPSC also has found that when companies come forward and agree to produce paid advertisements – in magazines, in daily newspapers, on TV, on paper bags given to customers at retail chains – the level of consumer awareness of a given recall increases significantly. Thus, depending on the recall, the CPSC may request that companies undertake these additional efforts.

4) Testing Laboratory

Your FY09 budget request includes \$6 million for modernization of your testing laboratory.

a) What exactly does the Commission do at the current testing lab?

RESPONSE: Technical and engineering responsibilities at the current testing laboratory include:

- o the testing and evaluation of consumer products for hazards, defects, and compliance with standards;
- o testing and project support for the development and promulgation of CPSC product safety standards and regulations;
- o evaluation and development of proposed test methods and consumer product performance requirements (i.e., support of mandatory standards development); and
- o support of various Compliance programs through the testing and evaluation of products subject to regulations currently in effect.

b) What additional work do you expect to do at the new facility?

RESPONSE: The new facility will allow the CPSC to consolidate technical staff who are currently working at our headquarters building in Bethesda, Maryland, and at our laboratory in Gaithersburg, Maryland, and to expand testing and evaluation capacity in support of our Import Surveillance Initiative. Plans also include the design and construction of a Human Factors laboratory within the new facility. This lab will provide the CPSC with the capability to perform studies of children's and adults' interaction with various consumer products such as toys.

c) Have you found a site for the new lab?

RESPONSE: The CPSC is currently working with GSA to identify a site for the new laboratory. GSA's Solicitation for Offers was published on February 19, 2008, and the closing date for initial offers was March 21, 2008. According to GSA, the due date for best and final offers is dependent upon the number of offers received, as GSA requires time to negotiate with each offeror.

d) What is the total cost of the modernization? Are there any follow on costs after FY09?

RESPONSE: The total costs, based on a GSA estimate as of December 2007, are \$16.1 million. The CPSC funded \$2.1 million in 2007 to begin the acquisition planning for the new facility. In the CPSC FY08 Operating Plan, we have proposed providing an additional \$8 million to GSA to fund the acquisition and the configuration of the base shell of the site. In 2009, CPSC has proposed completing the funding with the allocation of a final installment of \$6 million to complete configuration of the space, equip the site, and relocate personnel into the new facility. At this time, we do not expect any additional funding needs for the site.

Questions for the Record
Submitted by Representative C.A. Dutch Ruppertsberger

1. There is no physical CPSC presence at any foreign port. Given that the best way to stop something harmful from being sold in the United States is to make sure it is not shipped to the U.S. in the first place, would the CPSC be more effective with staff in foreign countries? Does the CPSC have the ability to do this currently? If not, what is stopping the CPSC?

RESPONSE: Any foreign inspection program conducted by the CPSC would require international reciprocity and (under World Trade Organization rules) could not target only one country. Since many of the consumer products still made in the United States are manufactured here only because other countries have not yet obtained the owner's intellectual property, it would be worth careful consideration before inviting foreign inspectors from around the world into U.S. factories.

Additionally, it is important to understand that strategies for deploying inspectors are not equally effective across product categories. For food products, the principal focus of government inspection is the food processing facility and its procedures. This is because unsanitary conditions and poor procedures can result in a product that turns deadly later in the marketing chain. Because facilities are the key, one inspector can cover numerous processing facilities with great effect. A periodic inspection of the facility and procedures assures the safety of thousands or millions of units of food. Product sampling during these visits is incidental and serves only as a verification.

Unlike food, consumer products (such as toys or electrical products) do not spoil in transit; they were either made according to safety standards or they were not. Therefore, a factory visit by a consumer product inspector has nowhere near the impact of a facility visit by a food safety inspector because the only valid information taken away from the consumer product inspection is the level of compliance of only those products seen by the inspector at that time of the visit (which is why commercial certification requirements include protocols for multiple samples at various stages). Unlike food, an unsanitary consumer product factory may still turn out 100% safety compliant consumer products just as a sterile factory may produce hazardous products.

Since CPSC could not, even with hundreds of inspectors, cover the tens of thousands of factories in China with visits frequent enough to guarantee product standards, the most effective deployment of product safety inspectors is in response to actionable intelligence. Normally, this takes the form of information that a shipment might not be, or is not, compliant. This is exactly the strategy behind CPSC's new Import Surveillance Division.

There are several reasons for interdicting non-compliant goods upon arrival at the U.S. port rather than at the embarkation port. The starting point is that a container would be opened and inspected only in response to actionable intelligence. If that container is in China, the cost per unit of the inspector's time is significantly higher than if the inspector is working in the United States. If the container is in the foreign port, the inspector has no authority to seize or destroy the goods, so they are likely to be diverted to another destination on another day. Moreover, the chances of uncovering actionable intelligence about a shipment improve over time with the assemblage and analysis of vessel, manifest, and broker information during the vessel's transit, so an inspection asset employed overseas is not as well positioned as a colleague based in the U.S. destination port.

2. CPSC investigators are at key ports around the country. I represent the Port of Baltimore. Could you please tell me which ports are included in this program and the criteria for choosing those ports.

RESPONSE: Because of the problem of “port shopping” by some unscrupulous importers, I am reluctant to name the ports that have been chosen by the agency or relate the agency’s enforcement strategies in this regard. I would however be pleased to respond to your question in a private setting where this information could remain confidential.

**Rep. Peter Visclosky's Questions for the Record for the
Consumer Product Safety Commission
Hearing of the Subcommittee on Financial Services and General Government
March 11, 2008**

1.) In January of this year, I introduced H.R. 5069, the Food and Product Responsibility Act, which encompasses a wide range of products, including products under the authority of the CPSC. The bill requires manufacturers and importers to show that they have the financial wherewithal to cover the cost of a recall and to pay damages if defective damages cause harm. This places the risk where it belongs – on the companies that introduce toxic imports into the commerce of the United States. It goes beyond simply giving the CPSC the discretion to make rules that would require manufacturers and importers to show financial responsibility for recalls of unsafe imports.

- **Could the CPSC provide me with an analysis of this bill and indicate the bases for your support or opposition? Please be specific.**
- **If the CPSC would not support the bill, please describe what measures you will be taking to ensure that manufacturers and importers of products subject to recall assume the responsibility for the cost of the recall and for compensatory damages.**
- **When manufacturers and importers are not financially able to cover the cost of a recall and of compensatory damages, how does the agency address this problem? Does the CPSC pay for the recall? Who pays?**

RESPONSE: The Commission currently lacks a quorum and has not taken a position on this legislation. Under Section 15 of the Consumer Product Safety Act (CPSA), if the Commission determines that a product distributed in commerce presents a substantial product hazard, it may order the manufacturer, distributor, retailer or importer of that product to take corrective action. The CPSA allows the person to whom the order is directed to choose to repair or replace the product, or provide the consumer with a refund. While the CPSC announces corrective actions and sends out notifications, the agency does not pay for the corrective action. In the event that a manufacturer or importer goes out of business because it is not financially able to cover all the costs, the agency is empowered to require that the distributors or retailers of the product pay for the corrective action. (With regard to compensatory damages, that would involve a private cause of action outside of CPSC's jurisdiction.)

2.) Under H.R. 5069, manufacturers and importers would have to show they have the financial resources to cover a recall and compensatory damages. This is a market-based solution because the insurance market would determine the level of risk and thus the extent of financial resources that would be sufficient. Manufacturers and importers of products that have been subject to recall in the past likely would have to show greater financial resources than those who have not had recalls. The market would make that determination, not the government.

- **Would the CPSC agree that a market-based solution is a better means to ensure that products entering our domestic market will be safe than what currently exists?**

Won't manufacturers and importers take more care when there is an additional cost to bear if they are not careful in what products they chose to introduce into our market?

- **Isn't this market-based solution an appropriate way to shift the burden away from innocent consumers, who now bear all the risk?**
- **Isn't it time to get serious about shifting the risk of unsafe imports away from the public to those best able to make sure products are safe?**

RESPONSE: Current economic incentives include fines imposed on violators by the CPSC, the costs of corrective actions, and the often severe economic damage to a company's reputation and brand name associated with a corrective action. While manufacturers and importers are expected to meet their responsibilities under the law regardless of these economic motivations or burdens, the fact is that these costs are often important incentives for companies to comply with the law. In a formal proposal sent to Congress last year, CPSC Acting Chairman Nord requested an increase in the agency's civil penalty cap, proposed asset forfeiture as an additional criminal remedy under the Commission's statutes, and asked for the authority to impose penalties of up to \$10 million.

3.) It is my belief that H.R. 5069 also would comply with the World Trade Organization (WTO) rules because importers and domestic manufacturers would be treated equally. Both would be required to demonstrate they have the financial resources to cover the cost of a recall and damages for harm caused.

- **Could the CPSC please provide its views as to whether H.R. 5069 is compliant with the WTO? Please be specific and provide a full legal analysis in support of your position.**

RESPONSE: The CPSC relies on the legal expertise of the U.S. Trade Representative (USTR) for opinions on whether an activity or procedure complies with WTO rules, and it would therefore not be appropriate or authoritative for CPSC staff to attempt to opine on the question.

4.) It is my understanding that the CPSC and the Customs Border Protection (CBP) are not effectively communicating and coordinating about product recalls that involve imports. Specifically, the CBP has been slow to learn what imported products are subject to recalls by the CPSC because of hazards and thus the CBP has not been able to expeditiously stop imports of recalled goods at the border.

- **Can you describe in detail what mechanisms you have in place to coordinate with the CBP to ensure that the CBP is informed in a timely manner about recalled imports?**

RESPONSE: CPSC staff has open lines of communication with multiple contacts at CBP headquarters to relay information about recalled products as well as to coordinate import alerts focusing on potentially violative or otherwise potentially hazardous products. CBP recently established a new Import Safety Division. CPSC's new Import Surveillance Division is communicating with CBP's Import Safety Division on virtually a daily basis. The CPSC also routinely coordinates activities with CBP's Commercial Targeting Office as well as its Federal Emergency Enforcement Branch. Additionally, through the CBP ITDS effort, the CPSC is giving significant new access to and integration with CBP databases and shipment information that is already aiding the agency in the fulfillment of our missions (see below).

- **Does the CPSC need funding so that it can put into place effective mechanisms to ensure that the CBP is informed expeditiously about recalls of imports so that the CBP may act to protect the public quickly?**

RESPONSE: As noted above, CPSC staff has open lines of communication with multiple contacts at CBP. At those infrequent times when a recalled product may still be in the import stage of the distribution chain and can still be refused admission to the United States, CPSC staff promptly alert CBP staff so that they can take appropriate enforcement action. The CPSC is able to perform this task within our current level of funding.

5.) As you are aware, under a September 2007 memorandum by the Office of Management and Budget, all agencies were given until 2009 to fully utilize the International Trade Data System (ITDS), which is a central database of international trade data. It is my understanding that the CPSC has failed to fully participate in the ITDS and instead appears to want to maintain its own data filing system. Is that correct?

RESPONSE: That is not correct. See next response.

- **What progress has been made by the CPSC to implement the ITDS? Please explain in detail.**

RESPONSE: Selected CPSC staff with the required background clearance have been using ACE (Automated Commercial Environment) to conduct research on imported products since April 2007. We anticipate having an additional 12 staff cleared to use the system in the near future (background investigations are on-going). The CPSC is currently at the stage of the ACE/ITDS implementation process where we are documenting the unique "To-Be" processes we would like to have incorporated in the ACE system. Per our schedule submitted in response to OMB Directive M07-23, we are working to complete our concept of operations document for submission to CBP by June 30, 2008. Future steps in this process include completing the necessary MOUs and submitting business and system requirements to CBP.

6.) A measure introduced in the Senate, S. 2045, the CPSC Reform Act of 2007, includes a provision that provides the CPSC with the discretion to use its rulemaking process to establish rules that would require the posting of a bond or other proof by manufacturers and distributors of their financial ability to cover the cost of an effective recall, or to cover the costs of holding and destroying a product, if such action is required by the CPSC under the CPSC Act or other Act enforced by the CPSC.

- **Did the CPSC take a position on this provision? If so, please explain that specific position and the reasoning and bases of your support or opposition thereto. If not, please explain whether the agency would be in support and why or why not.**

RESPONSE: The Commission did not take a position on this provision. In her package of legislative proposals submitted to Congress last year, Acting Chairman Nancy Nord did request that the Commission (or Customs and Border Protection) be permitted to require the posting of a bond sufficient to pay for the destruction of a shipment of consumer products where the expense may be substantial. The cost of destruction of a product shipment can be much more accurately quantified than the cost of a potential recall, and unlike recalls, the agency in the past has had to bear disposal costs, specifically the significant disposal costs of violative fireworks.

- **Please indicate whether the CPSC is of the view that the implementation of this specific provision would require additional funding and if so, please provide an estimate of the time and resources that would be necessary for full implementation, assuming the agency utilized the discretion provided.**

RESPONSE: Section 19 of the Senate-passed version of the CPSC Reform Act would allow the Commission to require posting of an escrow, proof of insurance, or security acceptable to the Commission in certain cases to cover the cost of a recall or destruction of products. CPSC staff estimates that this provision would require the time of 2.5 employees (two attorneys; “.5” technical staff) at a cost of \$366,000 in fiscal year 2009.

Questions for the record submitted by Chairman Jose E. Serrano**Additional Comments by Commissioner Thomas H. Moore****1. New funding requirements under the reauthorization.**

Response: It is extremely difficult for me to assess the staffing and cost estimates provided by the Acting Chairman. My office was neither involved in developing them nor consulted on the assumptions upon which they are based. My general impression is that the estimates are on the high side.

As indicated in Acting Chairman's Nord's response, new estimates are being prepared with regard to Section 7 of the Senate Bill. However, the basis for those new estimates is more a closer look at and a better understanding of what is expected of the Commission in fulfilling the mandate of that section, rather than being based on revised language. My sense is that other bill section's cost estimates could be similarly revised when the Commission staff gets a fuller understanding of the requirements of such sections and can base their estimates on that better understanding.

2. Implementation of the reauthorization.***1 What criteria will you use to prioritize your increased responsibilities under the reauthorization?***

Response: Any specific time requirements in the final reauthorization bill will have to be met and would override our normal priority-setting procedures. There are several factors that could impact the Commission's ability to meet the deadlines established in either of the bills:

- The Commission's ability to hire additional technical staff in the required time and get them up to speed on the agency's work.
- The lack of a Commission quorum when action is required on a rulemaking could prevent us from meeting a deadline. In addition to not being able to act on rulemakings, without a quorum the Commission cannot establish priorities for Commission action or vote on budgets and operating plans.
- The eventual move or rehabilitation of our laboratory site could also affect our ability to meet deadlines as we have no idea at this time when that will happen or what disruption that might cause for certain types of testing.
- The Commission has a number of important rulemakings in progress, including All-Terrain Vehicles and Upholstered Furniture Flammability, that we hope to keep on schedule.

2 Will the Commission look to the work of other Federal agencies as a model in order to make changes as efficiently as possible? For example, in creating a public database of consumer product complaints, will the Commission look to the database created by the National Highway Traffic Safety Administration (NHTSA)?

Response: Our staff people are currently engaging in conversations with NHTSA to gain insight into the process of establishing such a database. Our staff has also been in meetings with Congressional staffers from both the House and the Senate reauthorizations subcommittees, consumer groups, and software experts to get a sense of how we can best achieve the creation of this important publicly available database.

Our agency already has a computerized complaint form for consumers to file complaints with us. This form would need to be redesigned, along the lines of the NHTSA form, to elicit the most accurate information from consumers and to be self-vetting so that the consumer verifies the information as entered and there is no need for verification follow-up by our staff. It should also probably incorporate drop-down menus to aid consumers in filling in relevant information and should be designed to require certain minimal information from the complainant before the complaint can be included in the system.

Some of our data systems, such as the National Electronic Injury Surveillance System (NEISS) are designed for a much different purpose and do not collect product names or manufacturers. NEISS, for example, is used to develop statistically valid national estimates of hospital emergency room treated injuries related to various categories of products. I see no need to change that system and it should not be necessary at this time to integrate it, for public disclosure purposes, into a consumer complaint database. There is no requirement in the Senate bill that old complaints be put into the system. It is a forward looking requirement and the agency should be forward thinking in its creation of a database that helps the public make wiser decisions about product purchases and provides them with information on products they already own so they can protect themselves against injuries caused by products that may subsequently be recalled.

Our agency has been trying for years to get funding to modernize all of our databases so that they are all part of one larger searchable database and our staff doesn't have to search each one separately. Unfortunately, we have never been able to secure funding for this critical need and each year our databases get larger and, therefore, our ability to see patterns and quickly flag emerging trends gets harder (particularly now that we have lost so many of our "old hands" who had so much knowledge stored in their heads). This is an issue that affects all of our databases, existing and future. If we could solve this problem while we are bringing the new consumer complaint database on line, this would be a tremendous help to the agency in the years to come. This is not to say that we could not revamp our existing consumer complaint database and bring it online without addressing the bigger problem. We could, but we would greatly appreciate any help Congress can give us in integrating all of our databases so that we won't miss potential problems that may be less apparent without the ability to combine all of our data into one searchable format.

3. Commission quorum.

Response: While the agency did delegate certain functions to staff prior to the most recent quorum loss, there are certain functions that are inappropriate for the Commissioners to delegate to the staff because they involve matters of public policy. First and foremost is our rulemaking authority. The agency promulgates federal safety standards after much discussion, public comment and staff research and analysis. The policy decision as to whether and how to proceed requires a vote of the Commission to move from one step in the rulemaking process to another. Gaining and losing quorums sets an unnatural--sometimes rushed and other times delayed--schedule for moving from one step to the next. Since the Commission engages in rulemaking in areas where there either are no voluntary standards or where voluntary standards are not properly addressing the risk, our inability to regulate can create a safety gap for consumers. Using an upcoming loss of quorum as the impetus for taking a step during a rulemaking process or rushing any staff investigative work, as opposed to having a complete staff analysis and recommendation, certainly does not serve the public interest properly. It can also lead to hasty and improperly based decision making. Unfortunately, we have found ourselves in this position far too often in the last few years. Both Houses of Congress have recognized that the quorum problem needs to be fixed by restoring the Commission to its full five members. While this won't completely eliminate the possibility of a loss of quorum, it should greatly reduce its likelihood.

4. New laboratory.

We do not know what site we will be on or what funds might be required to bring the chosen facility to the point where it accommodates all of our needs. That is why I have always supported the larger authorization amount in the Senate bill which contemplates modernizing the lab at its current location.

5. Imported toys with lead.

Response: While I support our work with the Chinese government and Chinese manufacturers, I think our primary focus has to be on making sure that the U.S. companies that have their products made in a foreign country such as China, or that import products from other countries, are held accountable for the safety of those products, just as we hold companies accountable for products they make in the U.S. An unsafe product can be made anywhere. Our only real leverage is with the American companies that put those products into our stream of commerce, whether they are the original manufacturer of the product, an importer or a retailer. They can't escape by using the excuse that the product was made elsewhere. *They* are the ones with the duty to the American consumer and *they* are the ones over whom we have jurisdiction and that is where our primary focus must remain.

7. Toy Industry Association certification proposal.

Response: Other than the staff offering comments, as it would in other types of voluntary standard activity, I think it best for the Commission to keep the TIA initiative at arm's length. The Commission's enforcement activities will, over time, determine whether this initiative is making a difference. I will say that a number of the recommendations surprised me because they seemed so basic—they would be the things I would expect any company to already be doing. But clearly when some of the biggest players in the world in the toy industry are not able, for example, to keep lead out of the paint on their toys, it would appear that underlying manufacturing principles are being ignored and perhaps everyone does need to be reminded of the basic requirements for making a safe product.

8. Pending CPSC rules.

Response: I would just add to the comments from Acting Chairman Nord on the upholstered furniture rule. The Commissioner was delayed approximately two years on this rulemaking due to a Congressional mandate that work on the rulemaking halt while we sponsored a study by the National Academy of Sciences on the potential health risks of certain fire retardant chemicals. Then after years of work and several draft proposals, the agency had to re-propose the rule when the furniture industry (contrary to its earlier position) requested that the agency also address cigarette-ignited fires, necessitating additional research, testing and requests for comments.

I personally think we should be moving forward with bedclothes flammability testing. The estimated effectiveness of the mattress standard was predicated on certain filled bedclothes being fire resistant. Limited funding has been one of the factors delaying work on this rulemaking. I hope that staff will eventually be able to do testing in this area.

As to bath seats, our reduced staffing levels have prevented the agency from doing an updated assessment of the safety of bathing infants in tubs with and without bath seats. It was largely staff's early analysis that infants of certain ages were safer in bath seats than not, which caused me to refrain from voting to ban bath seats outright. There is new information, through a survey done by the American Baby Group, on the actual usage of bath seats by parents that own them, which might give us more information on this subject. It is information I would need to have before I could determine whether the Commission should reexamine the possibility of banning the seats or merely allowing them to meet more stringent performance standards.

9. ATVs.

Response: I am attaching the statement I wrote when the Commission voted to go forward with the Proposed Rule on ATVs and when the Commission dismissed the petition to ban the sale of ATVs for the use of children under the age of 16. See: <http://www.cpsc.gov/pr/mooreatv.pdf>.

Personally I do not believe motorized vehicles of the size, weight and power of an ATV (whether they be "youth" models or not) should be in the hands of children. However, these vehicles are largely ridden on private property and many parents have determined that their children are

strong and sophisticated enough to operate these machines. Both of these facts would work to make federal enforcement of a ban difficult. The Commission would need the active support of state and local authorities and, given the difficulty many states have in passing laws regulating the riding of ATVs within their borders, getting such support might be difficult.

STATEMENT OF THE HONORABLE THOMAS H. MOORE
ON THE ALL-TERRAIN VEHICLE INITIATIVE, THE PETITION TO BAN ATVS
SOLD FOR THE USE OF CHILDREN UNDER 16 YEARS OF AGE
AND THE ATV SAFETY WEB SITE
July 12, 2006

Federal agencies are often criticized for taking too much time to solve a problem. Yet back in the 1980s, when this Commission first tackled the then relatively new product known (somewhat inappropriately) as the all-terrain vehicle, it took less than three years for the agency to get the manufacturers to agree, among other things, to: stop making the most dangerous version—the three-wheeler; create uniform standards for the remaining four-wheelers; implement a nationwide training program; implement age recommendations to try to keep children under 16 off of the larger ATVs; and fund an approximately \$8.5 million public awareness campaign. For a while those measures seemed to be working. The death and injury numbers went down. The agency and its staff had a right to consider what they had done to be a major accomplishment.

When the Consent Decrees expired in 1998, the Commission was able to get the manufacturers who had been a party to them, plus a few of the new entrants, to sign Letters of Undertaking (LOUs), which carried forward in a strictly voluntary fashion, most of the elements of the Consent Decrees. At the same time certain members of the industry agreed to another multi-year, multi-million dollar information and education safety campaign emphasizing the risks created when children younger than 16 operate adult-size ATVs.

As a result of the investigation that led to the Decrees, staff recommended that the agency ban the sale of ATVs (all ATVs, not just adult-sized ATVs) for the use of children under the age of 12¹ and the Consent Decrees signed with the manufacturers had age recommendations, geared to engine size, that started at age 12. The typical engine size and weight of an adult ATV at that time was 250cc (the largest was 400cc) and the largest machine weighed in at 600 pounds. In the intervening years, the ATV industry has changed drastically: engine displacement can now be as much as 800cc; the weights of the vehicles have also increased substantially, to as much as 800 pounds; the ATV manufacturers have managed to get around the no passenger rule by designing ATVs that are built for two; ATVs designed for children under the age of 12 are being marketed; and the sales of all ATVs have skyrocketed. And deaths and injuries are once more on the rise. Injuries, particularly to children, have increased significantly since the expiration of the Consent Decrees. While it is true that the number of ATVs being ridden has grown dramatically along with the number of ATV riders, the number of injuries has outpaced that growth and we do not know why. The introduction of bigger and more powerful machines may be part of the reason. All of the staff's analyses have found that the risk of injury increases with the size of the ATV engine.

¹ Report of the CPSC All-Terrain Vehicle (ATV) Task Force: Regulatory Options for All-Terrain Vehicles, 1986.

For adults, today's non-machine-related injury factors are pretty much the same as they were back in the 1980s: excessive speed, carrying passengers, driving on paved roads, driving while drinking. With regard to the ATVs themselves, control and stability issues, factors which were identified as characteristics resulting in an increase in ATV injuries back in 1985, continue to be "major factors associated with ATV-related deaths and injuries involving 4-wheeled vehicles."² For children, a large factor continues to be driving ATVs that are too complex, big and powerful for their capabilities. Despite all the information and education campaigns, despite all the self-policing of the dealers by the manufacturers and this agency's selective monitoring, despite the LOU requirements and the voluntary standard, with which the vast majority of the ATVs on the market today comply, we have not managed in nearly twenty years to really change the landscape of ATV injuries. The current manufacturers are pointing the finger at new entrants as being the cause of the increase in injuries. However, the new entrants are a recent and fairly small portion of the ATV market. The deaths and injuries our staff has been chronicling over the years have been occurring on the established ATV manufacturers' machines. The LOUs and the standard are not failing because of a lack of participation by new entrants; they are failing because they do not adequately address the ATV problem. And there is a problem. It is defined by the first sentence in the preamble to the Notice of Proposed Rulemaking (NPR): **the unreasonable risks of injury and death associated with all-terrain vehicles.**

When the Commission issued an Advance Notice of Proposed Rulemaking on ATVs last October, there was cause for hope. It appeared that engineering and other research, such as had been done to get the three-wheeled ATVs off the market, would be done to find out what mechanical features of the four-wheelers (if any) were contributing to the deaths and injuries, what could be done to improve those features, and what other factors are behind the increase in injuries since the obvious factor of increased usage did not account for all of it. Instead, three months after the close of comments, and only five months after beginning the rulemaking proceeding, the ATV team was handed a detailed outline of what the proposed rule was to contain and told to have it to the Commission by May 30th. Plans for testing ATVs to the voluntary standard and for testing various models against each other to look for mechanical differences among machines that might lead to handling improvements, as well as other projects that would have been the basis for a recommended NPR were shelved.

Our staff deserves an enormous amount of credit for meeting their "March directive" with the same thoughtfulness and professionalism that they bring to every project. They did the best they could with what they had to work with. This is not a true staff recommendation (although they did manage to slip in a few improvements of their own) and, to the extent there is disappointment in the end product, that should be directed higher up the management chain.

As drafted, I do not think the NPR will have much impact on the unreasonable risk of death and injury from ATVs that the Commission has identified. Rather than simply be critical of the proposal, I have made, along with Commissioner Nord, a few

² See the staff response to my questions, dated July 11, 2006, answer to question number 4.

changes to the NPR and identified some additional areas of research for staff and industry to pursue in this next phase of the rulemaking proceeding.

The weakest part of the proposal is that it endorses the very solutions that have led us to this rulemaking in the first place. The voluntary standard does have some helpful provisions, but it is a barebones standard that staff considers “the minimum requirements that reflect manufacturing practices by the companies that currently represent the majority of the U.S. market.”³ This is a carefully worded statement that makes no reference to safety. Even industry, when it adopted the standard, was quick to dismiss provisions that our staff had considered important relating to pitch stability and suspension as not being safety related.⁴ Industry has made no significant changes to the standard since it was adopted in 1990. Yet this proposal would take the industry standard and certain of the LOU provisions and, with a few changes by our staff, convert them into a mandatory safety standard that will have preemptive effect. No State legislative or regulatory body (or perhaps even the State courts, in the case of youth ATVs) will be able to improve upon it. What our staff views as the floor, the minimum place to start in building a safety standard, suddenly, and without justification, is proposed as the ceiling.

If we are going to have a mandatory performance standard for ATVs (and I certainly agree that we should) we should have done the necessary testing to see if the current standard is effective in reducing deaths and injuries and found out what additional provisions should be included in a mandatory standard *before* we proposed it as the solution. It is impossible to make any assumptions about the proposal’s ability to reduce deaths and injuries without these steps. The only positive aspect of this part of the proposal is that it *could* prevent an even bigger increase in deaths and injuries if new entrants who are not complying with the voluntary standard substantially increase their market share in the future (although we really do not have the data to support the claim that they are not complying, let alone the claim that the LOUs and voluntary standard are effective in reducing deaths and injuries). It is, I suspect, the new entrants’ increase in market share, not their alleged noncompliance that has suddenly made the industry decide there needs to be a mandatory standard and is also responsible for their new willingness to add certain of the LOU components to that standard.⁵

The stability of 4-wheel ATVs continues to be an issue. Staff found that forty-five percent of all of the injuries in 2001 involved an ATV that tipped over in some way: roughly half tipped over forward or backward and the other half tipped over sideways.

³ See page 354 of the briefing package.

⁴ “With respect to pitch stability, the participating industry members believe that use of static procedures to test and establish criteria is not representative of actual operating conditions. Nor has there been any analysis which indicates that static stability criteria have any significant relation to ATV accident or injury causation or frequency. [...] The suspension standard also represents a negotiated position. Most industry members view suspension primarily as a matter involving rider comfort. Moreover, there was an absence of accident data and analysis correlating accidents and injuries to the presence or absence of mechanical suspension.” From the Foreword to ANSI/SVIA 1-1990.

⁵ The proposal could have the perverse effect of driving a number of the manufacturers that have been trying to serve the youth ATV market, out of it, as the new entrants may find it difficult to institute the training requirements.

Tipping over was the precipitating event in forty percent of the child fatalities that staff studied from 1999 and 2000, and occurred in sixty-six percent (though it was not always the precipitating event) of the 184 child fatalities that staff reviewed for the petition to ban the sale of adult ATVs for the use children under 16. Therefore, language has been added to the preamble to let the ATV manufacturers know that we are not letting them off the safety hook and that they need to be looking at ways to make their machines more stable and less prone to injuring their riders and that we should see those recommendations before the standard is finalized. I hope the manufacturers will take this statement by the Commission seriously.

There are a number of things we do not know as we go forward with this proposed rule, but one of the things we do know with certainty is that children should not be driving adult ATVs. More than ninety percent of the children who die driving ATVs are on adult ATVs. The hospitalization rate for children injured on ATVs is about 12 percent. This is more than twice the hospitalization rate for all age groups for all consumer product-related injuries treated in hospital emergency room, which has averaged 5.4 percent over the last three years.⁶ When you have a higher hospitalization rate it is an indication of more severe injuries, such as head injuries and internal organ injuries. Some commenters like to point out the greater number of injuries to children from bicycle accidents. However, the hospitalization rate for children 15 and under for bicycle-related injuries in 2005 was only 4.2 percent. In 2001, 15 percent of bicycle deaths were to teenagers.⁷ During that same year, 26 percent of the ATV-related deaths were to children under 16. Not only are the ATV-related injuries to children more severe, but they are also far more likely to result in death.

Since the Consent Decrees were signed, industry and CPSC have made efforts to keep children under 16 off of adult ATVs. One of those efforts has involved the manufacturers instructing their dealers not to sell an adult ATV to a customer who indicates to the sales person that the ATV will be used by a child under 16. The Commission has monitored the dealers, as have the manufacturers, and on occasion a news organization has tested the dealers in this area as well. A NewsChannel 5 investigative team went to ATV dealers in 2004⁸ to see if the sales personnel would sell an adult ATV to them for a child under 16. Only one out of the five dealers they visited did not try to sell them an adult ATV. One dealer even coached the purchaser on what to say: "I can't sell a bike if it's for him because he's under 16. That's why when you come in, you have to make sure your husband has something he likes for himself to ride." Our own monitoring has found similar examples of ATV dealers knowingly evading the age guidelines. Now we are proposing to require that ATV sellers have purchasers sign an age acknowledgement form (something many dealers currently already do). The proposed version is an improvement over the forms currently in use as it will have the number of ATV-related deaths and injuries to children under 16 on it and it would be

⁶ A study published in Pediatrics, entitled "All-Terrain Vehicle-Related Nonfatal Injuries Among Young Riders: United States, 2001-2003," found that, compared to emergency departments visits for all types of injuries among children, children injured on ATVs were **five** times more likely to be hospitalized.

⁷ From the Insurance Institute for Highway Safety Highway Loss Data Institute.

⁸ Cleveland, Ohio, reported on NewsNet5.com, February 20, 2004.

required to be used by anyone selling a new ATV. However, this form cannot police the conversations that may have taken place prior to the signing of the form. If, as I suspect, the manufacturers abandon the LOUs if this proposal becomes final, then we will lose their promise to keep their dealers in line and be left with a piece of paper that any seller can use to show he told the purchaser that children under 16 should not be on adult ATVs. This could relieve him of any consequences from the sale of an adult ATV that he knew was being sold for the use of a child under the age of 16. If this happens, it would be a step backward in an area where compliance has never been as good as it should have been. We are, therefore, asking staff to give us their plan for how they intend to enforce the new age acknowledgement form, to describe the enforcement tools this provision would give them and to elaborate on when these tools would be used.

ATVs are not toys, but many parents treat them as if they were. ATVs are heavy, fast and dangerous for all but the most skilled and mature drivers. The current situation that permits children under 16 to drive adult ATVs is unacceptable. I do not understand how the Commission can have continued to declare this to be a dangerous practice for nearly twenty years, but not ban the sale of adult ATVs for the use of children under the age of 16. It is true that the sellers of new ATVs are only a part of the picture, but they are a part of the picture. If sellers had to have an ATV purchaser sign a form that said that federal law prohibits the sale of adult ATVs for the use of children under the age of 16, and they knew that they faced penalties from a federal agency if they got caught circumventing that form through their verbal communications or otherwise, perhaps more purchasers and sellers would take the age issue seriously. I think even one well-publicized enforcement action would get the attention of the industry and the public.

Over the years we have emphasized the need for all ATV riders to wear helmets and other protective gear. We will continue to emphasize protective gear, but when a several hundred pound machine flips over onto a rider, very often all the protective gear in the world is not enough. That is why I cringe when I read reports of parents saying things like one parent said in a 2005 TV news report. When he was asked if he ever worries about his daughter riding an ATV, he replied, "Nah. She wears the gear. She's protected." He should talk to the father of Michael Beltz, a six-year old who was wearing a helmet, a chest protector, gloves and eye protection but who, for reasons that are not clear, went flying over the handlebars of his ATV, broke his neck in three places, and died. In reading the in-depth investigations from the briefing package on the petition to ban the sale of ATVs for the use of children under 16, it seems clear that, of the children who died on ATVs who were not wearing helmets, many would have died even with a helmet because they had fatal neck or crushing torso injuries. Even adults have been crushed to death or been trapped and died from asphyxiation, drowning or other causes, because their ATVs were so heavy they could not extricate themselves when they got trapped underneath of them. But adults are more likely than children to have the judgment to leap free of the machine if it overturns. Children often lack the judgment to escape from the consequences of their mistakes. No amount of training can instill judgment. The brain is going to mature on its own schedule and, as we now know from research conducted at the National Institute of Mental Health, the parts of the brain that control impulses and decision-making do not fully mature until about age 25.

I fear, however, that it is too late to turn back the clock with regard to children between the ages of six and sixteen driving ATVs. Staff found that 7.2 million children under the age of 16 were riding ATVs of one size or another in 2001. I am sure that number is even higher today. So we are left, once again, with trying to get children off of the adult ATVs by proposing new, more size-appropriate youth ATV models. Certain requirements proposed by staff for the youth ATVs, such as automatic transmissions and stop lamps, are good ones. I also think it is right that we have proposed moving away from engine size as the sole demarcation between adult and youth ATVs and among the youth ATV categories (although I am not convinced that speed tied to age should be the only criterion). Engine displacement is no longer a rational criterion and is having the unintended effect of restricting the training opportunities for children and forcing the bigger (though not necessarily more mature) children onto adult ATVs. Part of that problem can be laid at the doorsteps of the major ATV manufacturers. Our staff has indicated that there was no reason bigger-framed youth ATVs could not have been made under the current engine size restrictions.

Of course, it is not at all clear that these new classes of youth ATVs will be made by the major manufacturers either. They may decide not to compete in the youth market and there is nothing in the proposal that requires them to do so. If they can dodge the age guidelines with a simple signature on a form, they may have even less incentive to make youth models than they do now. We cannot even be certain that if the new youth models are made, that they will attract the larger children away from the adult machines. A ban on the sale of adult ATVs for the use of children might give the manufacturers more incentive to push the youth models and encourage parents to buy them. As the preamble to the NPR notes, the injury rate for ATV riders under the age of 16 who are driving adult ATVs is twice the expected injury rate of those who are driving age-appropriate ATVs. We must find the right mixture of size, weight, speed and other factors relative to the maximum size of the children who will be riding them, to make them attractive enough for youths (and their parents) to choose over their more dangerous adult counterparts.

To try to achieve that end, the staff is being instructed to undertake a number of projects related to the design and development of the new youth models and to the training of the children who will be learning to drive the youth ATVs. The briefing package notes that children cannot be trained out of the characteristics that make them and an ATV a dangerous combination⁹. This raises issues as to how children learn and what we can really expect a child of six or seven, or fifteen, for that matter, to take away from a training course. The standard SVIA training course is not geared to children. I believe that children should be trained separately and with a program tailored to their

⁹ "Behavioral characteristics such as impulsiveness, immature judgment, high risk-taking propensity, disregard for consequences, and susceptibility to peer pressure are present in most teens, no matter their experience level, and often persist until the late-teens to early twenties. Research affirms that these behavioral characteristics may be due to both social development and the physical maturation process of the brain (Giedd, 2002, NIHM, 2001, Restak, 2001). These behavioral characteristics are commonly dominant in adolescents and are difficult to modify through training, supervision, or warnings. It is not that adolescents are unintelligent or unable to learn to operate an ATV, but in general, these developmental factors suggest that it is beneficial to limit a teen's access to high-speed motorized vehicles." From the staff briefing package, pages 361-362.

learning abilities. We have instructed staff to look into this area and come up with recommendations for training courses adapted to the younger drivers. I believe it is crucial that we commit the resources to make sure that youth ATVs are designed to be as safe as they can possibly be, that they are built to fit the children who will be driving them and that the training that children receive is designed to maximize the ways that children learn. Obviously the process will go faster and farther with the active participation of the ATV industry.

As mentioned earlier, there have been several expensive ATV information and education campaigns in the past. We do not know what impact they have had on reducing deaths and injuries. While I am a proponent of a new ATV information and education campaign, I am not convinced that the same old message—wear your helmet, don't carry passengers, don't drive on paved roads, drive an appropriately sized ATV, etc.—is effective any longer (if it ever was). ATVs have become ubiquitous in certain areas of the country. They are no longer novelties. It is time we investigated whether we need a harder-hitting campaign that does not minimize the unreasonable risks of death and injury that ATVs present. To that end, the staff is being asked to determine what messages will get the attention of parents and their children. Parents need to understand exactly what they are letting themselves and their children in for when they allow their children to climb aboard an ATV. I do not ever want to hear another parent of a dead child lament that they did not understand how powerful and dangerous these machines can be. Parents will still misjudge their children's abilities, but it should not be because they did not have all the information they needed to make the proper decision.

The proposal contains a number of other helpful provisions, such as: the creation of an ATV web site that pulls together information from all fifty states about their ATV regulations and provides basic ATV safety information; the requirement that all ATVs be certified to a mandatory standard; more descriptive warning labels; the formal banning of three-wheeled ATVs; changes to the training curriculum to provide for written and riding skills tests; and the requirement that all sellers provide free training for ATV purchasers and their families. None of these are likely to have a major impact on the current death and injury trends but they are all good ideas nonetheless.

Additions to the NPR such as, looking more carefully into pre-purchase training, the addition of Commissioner Nord's language about the expectation that training be reasonably accessible, revising the web site incident reporting form to allow for more detailed information to be collected about ATV incidents and to include a separate page on the web site about what parents about to buy an ATV need to know, are also positive steps. While I cannot disguise that I feel the package as originally proposed was weak and that the additional items we have added, while helpful, still do not cure it of its fundamental flaws, it is still a step in the right direction and I hope that we are not done yet. This is just the proposal stage and since it was not achieved with the normal research and testing that one would expect in a rule of this magnitude, no one should hesitate to suggest bolder changes which might require re-proposal.

I find it interesting that in the preamble to the proposed rule, the language on preemption is back to our usual practice of merely quoting the statutory language on preemption without editorial comment. I suspect that is because, had the majority followed the course they set out in another recent rulemaking, they could have found themselves trying to explain why State court actions involving adult ATVs, which are regulated under the Consumer Product Safety Act, are not subject to preemption, but those involving youth ATVs, which are regulated under the Federal Hazardous Substances Act are. Thus parents of children killed on youth ATVs might be prevented from suing the manufacturer in certain instances, but if that same child had been on an adult ATV, the same lawsuit could go forward. That outcome would certainly be counterproductive to what we are trying to achieve.

While the ATV Notice of Proposed Rulemaking is not as aggressive as I had hoped it would be, I am nevertheless voting to approve it with the changes attached to my ballot. I am also voting to approve the petition to ban the sale of adult ATVs for the use of children under 16 and the creation of the new ATV web site. I hope that the next stage in the proceeding will not be as rushed as this stage has been and that staff will be allowed to do the work they need to do to justify a final rule.

Question for the record submitted by Congressman Peter Visclosky

Response provided by Commissioner Thomas H. Moore

1.) 3 When manufacturers and importers are not financially able to cover the cost of a recall and of compensatory damages, how does the agency address this problem?

Response: In some instances the agency has been forced to accept a corrective action plan that was less comprehensive than staff would have liked. Either consumers ended up having to pay certain out of pocket expenses, or a fund was established with a set amount of money and consumers were given replacement products or refunds until the fund was exhausted with the result that some consumers obtained a limited remedy or no recall remedy at all. Thus I think we do need some mechanism that would provide relief for consumers when the company involved in the recall cannot afford the appropriate recall remedy. I do support the requirement of financial responsibility so that the burden of a recall does not fall on the innocent consumer. In that regard I support Section 19, the bonding provision in the Senate reauthorization bill.

TUESDAY, APRIL 1, 2008.

**U.S. NATIONAL ARCHIVES AND RECORDS
ADMINISTRATION**

WITNESSES

ALLEN WEINSTEIN, ARCHIVIST OF THE UNITED STATES
ADRIENNE THOMAS, DEPUTY DIRECTOR
MARTHA MORPHY, CHIEF INFORMATION OFFICER

CHAIRMAN SERRANO'S OPENING STATEMENT

Mr. SERRANO. Before we begin, I would like to announce that, unfortunately, this will be my last hearing as the Chairman. I will be resigning my seat. Senator McCain has asked me to run as his running mate in this Presidential—why is that so funny?

Mr. REGULA. You are trying to get my vote.

Mr. SERRANO. All right. You know. You were supposed to play along with the Chairman on the April Fool's joke. I guess McCain would not be picking me, so I guess that did not sell too well. Who else? Who would have picked me? No one.

So the hearing will come to order, and we welcome you. I actually thought of another April Fool's joke where we would say we found \$1 billion to give the Archives, but no one would believe that, so the intent is there, so you know.

Today, we will hear testimony from the Archivist of the United States—I told Dr. Weinstein that, in Spanish, we say *archivo* for archives. The temptation to say “the archeevist” is really there, but I thought I would do it right—on the budget request of the National Archives and Records Administration for fiscal year 2009.

NARA, as we all know, serves the vital role of the Nation's record keeper. It works to preserve and to provide access to the records of Government, from the original copies of the Constitution and the Declaration of Independence, to the service records of military veterans, to immigration and naturalization records, and many more. NARA also serves the vitally important role of publisher of the Federal Register, the Code of Federal Regulations, the U.S. Statutes at Large and Presidential documents.

In the area of Presidential libraries, NARA has been quite busy in recent years in adding both the Clinton and Nixon Presidential Libraries to its inventory while at the same time preparing for the upcoming Bush Presidential Library in Dallas, Texas.

Another current challenge for NARA is the growth of electronic government records and the need for special computer systems for these records. The Electronic Records Archives program at NARA is aimed at preserving electronic records and at making them permanently accessible regardless of future changes in computer technology. The program has experienced problems over the past year,

which NARA is addressing, and I look forward to discussing the issue further today.

I am pleased to note that, using funds provided by this subcommittee, NARA will restore the evening and weekend hours that have been cut back as well as add to its workforce of archivists, although it is unclear if NARA's fiscal year 2009 budget request would allow for these efforts to continue. I look forward to discussing this issue further as well.

Professor Weinstein, we welcome you back to the subcommittee. We also welcome NARA's Deputy Director, Adrienne Thomas, and NARA's Chief Information Officer, Martha Morphy, who are here to help answer the subcommittee's questions. Thank you all very much. We look forward to your testimony.

Let me first say on a personal note that I was here this past weekend, working hard at my office. As I was driving down Constitution Avenue from Arlington, there were plenty of folks around, but the longest lines anywhere were in front of the Archives, and I kind of felt some kind of personal pride in that.

Mr. Regula, the lines were incredible, especially those of the young people who were lining up. It was just wonderful to see. There were folks on the Mall. There were folks everywhere, but anywhere you went, the longest lines that were around the block were at the Archives, and that is a good sign for you, and it is a good sign for us, but it is also probably a greater sign for the country that there is interest in seeing those documents. So I congratulate you on that work. It is obviously part of the effort.

Before we begin, I would like to recognize my colleague, a man who himself at the end of this year will have so many documents to turn over you cannot even begin to imagine. It is Mr. Regula.

MR. REGULA'S OPENING STATEMENT

Mr. REGULA. Thank you, Mr. Chairman. There are not as many as you think, and the future is what we are talking about. I think the past is a prologue to the future. I believe that is chiseled on stone, and I use that often in speeches, but the past is a prologue, and we have to recognize that the past gives us the base on which to build our future as a Nation, and it is therefore very important.

I think there will be three events that cause great focus on NARA this year: We have a Presidential candidate for whom NARA has preserved records from her time as First Lady. Of course, if she becomes the President, that will put the focus on those records more than there normally would be.

Secondly, we have an upcoming Presidential transition, when you become legally responsible for President Bush's records, and I suspect the lines will be maybe not as long as the Chairman described, but there will be a few lines down there to take a look at those, I would suspect.

We have the upcoming launch of the Electronic Records Archives prototype to see if this massive undertaking will be operational. You will be pioneering in that respect, because if you have success in using electronic records in the Archives, it will set a standard not only across this country but across the world. I assume you have some contact with other countries. I am curious—and I will

ask this in the question period—if other nations have archival records to the extent that we do.

Thank you, Mr. Chairman. I will have some questions at the appropriate time.

Mr. SERRANO. Thank you.

Professor Weinstein, I want to congratulate the Archives on this publication you just handed me. That is really such an interesting one because those of us who know the history of Jackie Robinson know that he was not just a baseball player; he was a pioneer who took on issues. Very few people know about Lieutenant Jackie Robinson and the difficulties that he had in the military. This was quite an American. You know, he gets credit for integrating baseball. I submit that he integrated America, not just baseball. So I thank you for this.

As you know, we ask you to hold your testimony to 5 minutes. However, your full statement will go into the record so we can have time to ask you questions.

ALLEN WEINSTEIN'S TESTIMONY

Mr. WEINSTEIN. Thank you, Chairman. Thank you, Congressman Regula and members of the subcommittee.

First of all, if I may, before I begin my formal testimony, I think your comment about April 1st and what announcement could not be made means that I probably should not submit my billion dollar budget. I believe that for the moment.

Mr. SERRANO. That would be your joke on us.

Mr. WEINSTEIN. Chairman Serrano, Congressman Regula, members of the subcommittee, and subcommittee staff, I am Allen Weinstein, Archivist of the United States, and it is my distinct pleasure to be with you today. I want to thank you, all of you, for the time taken from your busy schedules to meet with us on this year's National Archives and Records Administration budget request and for holding this hearing today.

I want at the outset to introduce my colleagues who accompany me at the table today. To my right is Adrienne Thomas, the Deputy Archivist of the United States, and who appeared before you last year in her role as Assistant Archivist for Administration. To my left is Martha Morphy, the Chief Information Officer at the National Archives. In that capacity, she oversees the development of the Electronic Records Archives, the ERA.

I will provide a brief summary of my statement, and I will ask that my full testimony be included in the record, but I cannot forbear saying, Mr. Chairman, that here we have Serrano, Regula, Weinstein, Morphy, and Thomas. Is this an American blend or what? I am privileged to be with the subcommittee this morning.

We are making steady progress towards an Electronic Records Archives that will ensure the preservation of and access to today's electronic records far into the future. After setbacks experienced last summer, Lockheed has achieved each major milestone on ERA development over the last 8 months, and we will be prepared to take in the largest corpus of Presidential electronic records to date, from the Bush administration on January 20th, 2009, in short, on deadline.

The National Archives is working with the private sector to digitize key archival series to ensure the widest possible access for the American public. Firms in the private sector are digitizing some of the most popular records in our holdings. As part of the Civic Literacy Initiative, we have created a public-private partnership with the Boeing Corporation and with the Foundation for the National Archives to develop a learning center at the National Archives in Washington to make the study of American history and civics more widespread and more engaging. My staff is working with the White House to plan a smooth transfer of the textual and digital records of the current administration to the National Archives in January 2009.

During fiscal year 2007, the National Archives responded to 1.2 million written requests; served over 135,000 researchers in Washington and across the country; hosted nearly 220,000 people at public programs; welcomed 2.9 million visitors to our exhibits in Washington and at our Presidential libraries; and received 35 million visits to our Web site. In 2 weeks, evening and weekend research hours in Washington, D.C., will return to their 2006 schedule thanks to the funds you provided in our fiscal year 2008 appropriations, for which we are deeply grateful.

In those lines, Mr. Chairman, you saw surrounding the two blocks of the National Archives downtown building, every day, there are 5,000 people or more. It is unprecedented. Mr. Chairman, the National Archives building in Washington was built as a monument to the Charters of Freedom: The Declaration of Independence, the Constitution and the Bill of Rights. However, this building and the entire agency are much more than a series of monuments. We house the records of all three branches of the Government, and we respond to literally millions of requests each year from the executive branch, the Congress, the courts, and from the American citizens who own these records. Each day, we host area school groups visiting Washington; men and women seeking the stories of their parents and grandparents; scholars writing the evolving story of our Nation; and teachers anxious to learn how to better teach history and civics through the documentary evidence held in our National Archives.

Our records management staff works with colleagues in other Federal agencies, in Congress, and in the courts to assure that we continue to hold the documents necessary for an accurate history to be written in the future. NARA's preservation staff works to maintain the balance between preservation and public access to assure that these documents will be available for both research and display. Our museum staff and archivists assure that visitors and researchers alike find what they are looking for in the National Archives. The 1,350 people who work in the Washington, D.C., area and the 1,650 people who work in 17 States and 40 facilities throughout the country and in the District of Columbia are dedicated to our mission, which is to serve democracy by safeguarding and preserving the records of the three branches of Government, ensuring that the people can discover, use, and learn from this documentary heritage to promote civic education and to facilitate a historical understanding of our national experience.

Mr. Chairman, as to the details of our 2009 request for funding, George W. Bush has sent to Congress a proposed fiscal year 2009 budget that calls for \$404 million for the National Archives and Records Administration. This request is framed in four categories: Operating Expenses; the Electronic Records Archives; the National Historical Publications and Records Commission; and Repairs and Restoration.

For operating expenses, the President's fiscal year 2009 budget request is \$327,783,000, an increase of \$12,783,000 over fiscal year 2008. This includes funds to prepare for the George W. Bush Presidential Library, to accelerate public access to the Presidential records in our holdings and to provide storage for records and to continue working on reducing the backlog of unprocessed textual records.

The operating expenses budget provides for the costs of the general operation of the agency, which includes rapidly rising energy and security costs; increasing operational costs of National Archives facilities around the country; and annual cost-of-living increases for the National Archives staff. Let me offer one illustration, one example, of a program funded within our operating expenses that is of particular interest to Congress, the Center for Legislative Archives.

The Center houses the institutional records of the House and Senate, from the First Congress to the present, one half billion pages documenting the history of representative government in the United States of America. It delivers more than a million pages of records annually to support the current conduct of congressional business.

As Congress moves from the paper to electronic preservation of its material, the Center faces a new challenge. Recently, the Center acquired over 900 DVDs of Senate hearings from the 108th Congress. These discs are the only copies of these hearings and are not reliable for long-term preservation. The challenge is to provide for the permanent storage and continued access to these important records. The answer to that challenge is Electronic Records Archives.

The Electronic Records Archives, the ERA program, requests an increase of nearly \$9 million. This higher funding level for ERA will allow the National Archives to accommodate a greater volume of electronic records; to bring more agencies into the world of electronic records scheduling; to provide public access with full content indexing and searching; as well as to provide a secure site for the Federal records.

For fiscal year 2009, the President has declined to seek funding for grants for the National Historical Publications and Records Commission, the NHPRC, which is the National Archives' grant-making arm. The administration, instead, focuses the National Archives' increases on its core activities for the preservation of Federal records.

For repairs and restoration to facilities for which the National Archives is responsible, such as the National Archives at College Park, Maryland, the National Archives building in downtown Washington and the Presidential libraries, the President's fiscal

year 2009 budget requests \$9,211,000 to maintain our facilities and to perform essential repairs. It is another vital part of our request.

Mr. Chairman, in 2009, we celebrate the 75th anniversary year of the establishment of the National Archives. During the past 75 years, the staff of the National Archives has found itself on the leading edge of change. Almost 30 years before the creation of the Freedom of Information Act, for example, archivists were making available—or “archeevists” depending on which you prefer—the records of the U.S. Government to the public in National Archives reading rooms.

Beginning with President Roosevelt’s gift to the Nation and with Congress’s help, we shepherded the growth and development of the modern day Presidential library system. In the 1970s, we heralded the era of archiving electronic records by taking in the first permanent computerized records from Government databases. Today, we are taking the lead in archiving digital information with the development of the Electronic Records Archives. We have always embraced these types of challenges as part of our unique and important mission as guardians of the records.

I will close, Mr. Chairman, with a little story that President Eisenhower liked to tell about a fellow who had just come to Washington in 1955. He was driving around and saw the National Archives building. He asked what happened in that building, and he saw carved on one of its pedestals the phrase “the past is prologue,” which you referred to. He asked the taxi driver what the motto meant.

The reply was: Oh, that. “The past is prologue,” that is kids’ bureaucratic talk. What it really means is, you ain’t seen nothing yet.

Mr. Chairman and members of the subcommittee, you ain’t seen nothing yet. We will continue to meet the challenges of the future.

I thank you, Mr. Chairman. This concludes my remarks, and we welcome any questions you may have.

[The information follows:]

STATEMENT

PROFESSOR ALLEN WEINSTEIN
Archivist of the United States

before the
**Subcommittee on Financial Services and General Government of the
Committee on Appropriations
U.S. House of Representatives**

FY 2009 Appropriations for the National Archives and Records Administration

April 1, 2008

Chairman Serrano, Congressman Regula, members of the subcommittee, and subcommittee staff, I am Allen Weinstein, Archivist of the United States, and it is my distinct pleasure to be with you today. I want to thank you for the time taken from your busy schedules to meet with me on this year's National Archives and Records Administration budget request and for holding this hearing today.

I want at the outset to introduce my colleagues who accompany me at the table today. Adrienne Thomas is Deputy Archivist of the United States and appeared before you last year in her role as Assistant Archivist for Administration. Martha Morphy is the Chief Information Officer at the National Archives, and in that capacity oversees the development of the Electronic Records Archives (ERA).

In 2009, we celebrate the 75th anniversary year of the establishment of the National Archives. During the past 75 years, the staff of the National Archives has found itself on the leading edge of change. Almost 30 years before the creation of the Freedom of Information Act, archivists were making available the records of the U.S. government to the public in National Archives reading rooms. Beginning with President Roosevelt's gift to the nation of his library in Hyde Park, and with Congress' help, we shepherded the growth and development of the modern day Presidential library system. In the 1970s, we

heralded the era of electronic records by taking in the first permanent computerized records from governmental databases. Today we are taking the lead in archiving digital information by overseeing the development of the Electronic Records Archives. The Electronic Records Archives will preserve and provide access to the government's permanent records in electronic form – despite the technological hurdles that such an enterprise faces. We have always embraced these types of challenges as part of our unique and important mission as guardians of the records of government.

As we come closer to the end of the current Administration, the Archives plays many roles that assist in a smooth transition of power. The Archivist receives and certifies the results of the Electoral College and saves those results for a year. The National Archives is integral in the move of the outgoing President's records, and briefs the incoming transition team on the requirements for documenting their activities. The Presidential libraries provide forums for the primary and Presidential debates. Immediately after the inauguration, the National Archives is called upon to make the records of the previous administration available to the new President, the Courts, and Congress to ensure the continuity of governmental operations.

Mr. Chairman, I bring you news today of progress in a number of key areas over the past year.

- We are making steady progress towards an Electronic Records Archives that will ensure preservation of and access to today's electronic records far into the future. After setbacks experienced last summer, Lockheed has achieved each major milestone on ERA development over the last eight months, and we will be prepared to take in the largest corpus of Presidential electronic records to date, from the Bush Administration, on January 20, 2009 – in short, on deadline
- We are working with the private sector to digitize key archival series, to ensure the widest possible access for the American public. We have partnerships in place with iArchives and the Genealogical Society of Utah. They are digitizing

some of the most popular records in our holdings, including photographs of the U.S. Army operations in Vietnam, approved claims files of the Southern Claims Commission (1871-1880), case files of Civil War widows pension applications, photographs by the U.S. Army Air Corps from World War II, and passenger arrival lists from the Immigration and Naturalization Service. We also have a distribution sales agreement with Amazon that has digitized over 700 historical motion picture films produced by the Federal government, including documentaries, military reports, combat footage, and newsreels.

- As a part of our Civic Literacy Initiative, we created a public/private partnership with the Boeing Corporation and the Foundation for the National Archives to develop a learning center at the National Archives in Washington that will parallel the wonderful learning centers that we have across the country in many of our Presidential Libraries. The Boeing Learning Center opened last year to help teachers learn how to use primary documents to make the study of history and civics more engaging. It is already a popular attraction at Archives I. The Constitution-in-Action Lab provides hands-on experience to middle school students, using primary sources.
- We have started an effort to replace the existing inadequate Military Personnel Records Center in St. Louis with a facility that will provide critical improvements to the environmental storage conditions for the 2,000,000 cubic feet of records we store for the military services. The new facility will enable us to ensure the preservation of essential military personnel files so they will be there when they are needed by our country's veterans and their families to guarantee their rights and entitlements.
- We brought the Richard M. Nixon Library and Museum in Yorba Linda, California into the family of Federal Presidential Libraries, and are preparing for the George W. Bush Library in Dallas, Texas.

- We are working with the White House to plan a smooth transfer of the textual and digital records of the current administration to the National Archives in January 2009.
- During FY 2007, the National Archives responded to 1.2 million written requests; served over 135,000 researchers in Washington and across the country; hosted nearly 220,000 people at public programs; welcomed 2.9 million visitors to our exhibits in Washington and at our Presidential Libraries; and received 35 million visits to our website. In two weeks, evening and weekend research hours in Washington, DC will return to their 2006 schedule thanks to the funds you provided in our FY 2008 appropriations, for which we remain grateful.

Mr. Chairman, the National Archives Building in Washington was built as a monument to the Charters of Freedom – the Declaration of Independence, the Constitution, and the Bill of Rights. However, both the building and the agency are much more than a monument. Each day we host area school groups visiting Washington, men and women seeking the stories of their parents and grand parents, scholars writing the evolving story of our nation, and teachers anxious to learn how to teach history and civics through the documentary evidence held in our National Archives. We host similar activities in our facilities nationwide.

Our records management staff works with colleagues in other Federal agencies, in Congress, and in the Courts to assure that we continue to hold the documents necessary for an accurate history to be written in the future. Our preservation staff works to maintain the balance between preservation and public access to assure that these documents will be available for both research and display. Our museum staff and archivists assure that visitors and researchers alike find what they are looking for in the National Archives. The 1350 people who work in the Washington D.C. area, and the 1650 people who work in 17 states and 40 facilities throughout the country are dedicated to our mission -- To serve democracy by safeguarding and preserving the records of the three branches of Government, ensuring that the people can discover, use, and learn from

this documentary heritage...to promote civic education, and to facilitate historical understanding of our national experience.

Mr. Chairman, as I have pointed out in the past, the National Archives is a pivotal node in the Federal information network. We house the records of all three branches of the government, and respond to literally millions of requests each year from the Executive Branch, the Congress, the Courts, and from the citizens who own these records.

Mr. Chairman, as to details of our 2009 request for funding:

The 2009 Request

President George W. Bush has sent to Congress a proposed Fiscal Year 2009 budget for the Federal Government that calls for \$404,002,000 for the National Archives and Records Administration. This request is framed in four categories: Operating Expenses, the Electronic Records Archives, the National Historical Publications and Records Commission, and Repairs and Restoration.

I am very pleased that the President has called for increases in resources that will allow us to provide the public continuing access, far into the future, to the electronic and traditional records of our government.

For operating expenses, the President's FY 2009 request is \$327,783,000, an increase of \$12,783,000 over FY 2008. This includes funds to prepare for the George W. Bush Presidential Library, to accelerate public access to Presidential Records, and to supplement our criminal investigative staff.

The operating expenses budget provides for the costs of the general operation of the agency, which includes rapidly rising energy and security costs, increasing rents for the National Archives facilities around the country, and annual cost of living increases for the nationwide National Archives staff. It also provides the support for implementing our strategic plan to deal with our backlog of unprocessed records, promote civic literacy,

provide online access to our holdings through public and private partnerships, and to serve the research and access needs of the public in our facilities throughout the country.

One program that is of particular interest to Congress is the Center for Legislative Archives. The Center, with a budget of \$2,000,000 and a staff of 17 full-time and 3 part-time employees, houses the institutional records of the House and Senate from the First Congress to the present—totaling one-half billion pages documenting the history of representative government in America. The Center delivers over a million pages of records annually to support the current conduct of Congressional business. The Center is devoting significant resources to the processing of the records of the 9-11 Commission. During FY 2009, the Center will make those records available to the public, as mandated by the Congress and the Commission.

The Center has an increased challenge as Congress moves from paper to electronic preservation of its materials. The Center recently acquired over 900 DVDs of Senate Hearings from the 108th Congress. These discs, which are not reliable for long-term preservation, are the only copies of these hearings. Like the rest of the National Archives, the Center will take on one more challenge of managing fragile electronic records by creating the ways and means to provide for the permanent storage and continued access to these important records documenting the history of Congress. These discs represent the beginning of a sea change in how Congress creates and preserves its records.

The Electronic Records Archives (ERA) program, a key National Archives strategic goal aimed at providing a means to preserve and make accessible all electronic records, is funded in the FY 2009 request at \$67,008,000, which is \$8,980,000 over the FY 2008 appropriated level. This higher funding level for ERA will allow the National Archives to accommodate greater volumes of electronic records, bring more agencies into the world of electronic record scheduling, provide public access with full content indexing and searching, as well as provide a secure site for the Federal records.

ERA and the technology it will harness are enormously important—not just to the National Archives, but to Congress, other Federal agencies, state and local governments, and countless private institutions. It will preserve and provide continuing access over time to any type of electronic record, regardless of its original format. Without ERA and its technologies, many of the records of the Federal Government will be at risk and could be lost forever.

For FY 2009, the President has declined to seek funding for grants for the National Historical Publications and Records Commission, the National Archives's grant-making arm. The Administration instead focuses the National Archives increases on its core activities for the preservation of Federal records.

For repairs and restoration to facilities for which the National Archives is responsible, such as the National Archives at College Park, the National Archives Building in downtown Washington, and the Presidential libraries, the President's FY 2009 budget requests \$9,211,000. This enables us to maintain our facilities and perform essential repairs. It is another vital part of our request.

Mr. Chairman, a more detailed justification of these increases follows:

OPERATING EXPENSES

For FY 2009, the Budget requests an increase to our base programs of \$12,783,000 to meet ongoing operational requirements. Of this total increase, the Budget requests \$6,864,000 for rent and contract increases, rising utility and energy costs, operation and maintenance of National Archives-owned facilities, license and access fees for technology, Department of Homeland Security's security assessment charges, and Congressionally enacted pay raises.

For FY 2009 we are requesting an increase of \$1,600,000 to add 15 archivist positions to the Presidential libraries. These positions will be added to the libraries governed by the Presidential Records Act – Reagan, Clinton, and Bush to speed up public access to these important Presidential records. With the exception of the \$800,000 added to our FY 2008

budget for staff increases, National Archives staffing devoted to accessioning and processing records has held steady over the past five years while our archival holdings have continued to grow. That has also meant that our backlog of records processing and preservation has continued to rise.

For FY 2009, the Budget requests \$120,000 to add an additional criminal investigator to the Inspector General's office. This will increase the investigative staff to four, and the total Inspector General staff to twenty.

The National Archives Office of Inspector General provides an important oversight function to help ensure that the National Archives adequately manages, preserves, and provides access to Federal and Presidential records. The Office of the Inspector General also plays a role in recovering Federal and Presidential records that while privately held should be in Federal custody. The additional resources funded by this initiative will translate into heightened independent oversight of all facets of the operations of the National Archives.

ELECTRONIC RECORDS ARCHIVES

For FY 2009, the Budget requests \$67,008,000 for the Electronic Records Archives, an increase of \$8,980,000 over the FY 2008 level. This increase will support the development and deployment of the public access segment of the system, begin work on digital preservation, and expand the number of agencies using the system to develop and manage record schedules. Of the \$67,008,000, the National Archives requests that \$21,213,000 be made available as one-year funding and the remaining \$45,795,000 be made available as two-year funding.

The Electronic Records Archives (ERA) is a leading edge National Archives project to build a comprehensive, systematic, and dynamic system that preserves and provides continuing access to authentic electronic records over time. ERA will enable the National Archives to process and make available permanently valuable Congressional,

Presidential, and Federal government electronic records. ERA will ensure that the National Archives has the capability by the end of the George W. Bush Administration to ingest and store unclassified and classified electronic records in an appropriate and secure environment and provide the search and retrieval capabilities needed to make these electronic records available.

The National Archives will immediately need the ability to respond to a variety of time-sensitive and often high-visibility special access requests for these records under the Presidential Records Act. The special access requests will include those from former and incumbent Presidents, the Courts, and Congress. ERA's preservation, search, and retrieval capabilities are necessary for the National Archives to meet the statutory requirements for these records.

The National Archives first received electronic records in the 1970s. Over the past 10 years our electronic records holdings have grown 100 times faster than holdings of traditional paper records. In the next three years, an unprecedented volume of historically important electronic records will be ready for transfer to the National Archives including Presidential and Vice Presidential records of the George W. Bush Administration.

To meet this need it is now crucial that the National Archives's mission capability fully evolve to deal with the increasing volume and complexity of electronic records. Our ability to preserve, find, manage, use, and make electronic records available is vital for the effective functioning of our democracy and the preservation of the nation's history.

REPAIRS AND RESTORATION

The Repairs and Restoration portion of the National Archives's budget request is \$9,211,000, a decrease of \$19,394,000 from our FY 2008 appropriations. The decrease represents the one-time costs for building record storage space at the Nixon Library, land acquisition and site preparation at the Kennedy Library, the final installment on the

Johnson Library renovations, and the final installment on the Roosevelt renovation design.

The National Archives is in 40 facilities nationwide and is directly responsible for maintaining and repairing 16 buildings—the National Archives Building in Washington D.C., the National Archives at College Park, 13 Presidential Libraries and Museum buildings, and the Southeast Regional Archives outside of Atlanta. All of these buildings are archival storage facilities and house historically valuable and irreplaceable documents. Literally millions of visitors go to these facilities to do research, to participate in conferences, and for learning and education opportunities. Maintaining these buildings to meet archival storage requirements, to keep their interiors and exteriors in a proper state of repair, as well as to make them safe and efficient buildings for use by researchers and visitors uses staff resources along with operating and repair funds. In addition, because of the significance of their holdings, their relationship to Americans of historical significance, and, in some cases, their architectural features or locations, the National Archives Building and all of the Presidential Libraries are subject to Federal historical preservation planning and review procedures. Currently, the National Archives Building in Washington and the Roosevelt Library are on the National Register of Historic Places.

Beginning in FY 1996, Congress provided “no year” funds to a Repairs and Restorations account to support necessary repairs to the National Archives’s buildings. The National Archives has put a formal business process in place to identify projects and classify them according to their criticality. The National Archives now completes an evaluation of every National Archives-owned building every five years, called a Building Condition Report. This report is a comprehensive examination of the entire building, with projections on repair and upgrade needs into various categories based on criticality. The inspections are performed in accordance with a National Archives developed scope of services, which prescribes the specific operational requirements to be met in every building system. The requirements have, as a basis, the storage standards for archival records as well as research, office, and museum operating parameters. Generally, three

or four Building Condition Reports are programmed every year, ensuring that all of the buildings are inspected every five years. The Building Condition Reports provide the information necessary to help prioritize repairs by need, thus reducing overall repair costs as well as conserving staff resources and better maintaining archival storage environments.

Mr. Chairman, this concludes our testimony. I would be happy to answer any questions that you or the subcommittee may have.

HISTORICAL PHOTOS

Mr. SERRANO. We thank you so much. Before I begin my questioning, let me just ask you a fun question.

This weekend, there were some publications that were put out for the opening of the Nationals Park. A lot of it had to do with Congress, with the House and the Senate's involvement with the Washington Senators. There were games that were played to raise money a long time ago, and you see photographs, very old photographs, of Senators and of Members of Congress practicing right outside the Capitol for these charity games. We are talking about the 1930s and the 1940s. That kind of extracurricular activity, if you will, that is not legislative duty. The photographs of that, the films of that, who keeps that, if anyone?

Mr. WEINSTEIN. Well, I would say it is probably divided between material kept at the Library of Congress and material kept at the National Archives. I would have to go check as to who, more precisely—

Mr. SERRANO. It was quite interesting. You know, as a baseball fan, it was interesting to me. It was also interesting to see how now the first pitch is thrown out as President Bush did so well, right over the plate, one on one with a catcher. In the old days, they would stand in the stands and throw it out to a catcher. Roosevelt threw it out to the whole team, and they were killing each other to catch the ball. It was really great. It was a great way to get a lot of Senators killed.

Mr. WEINSTEIN. One point about that, Mr. Chairman, is there was a period when Members of Congress and their staffs spent much more time, if you will, in Washington; when moving around the country was much more expensive than it is today. Basically, you were here all the time, so there was much greater communal life going on with the Congress here, involving the Congress and the administration.

Take the Supreme Court, for example. The Supreme Court building was not built until 1935 at least. So, basically, I remember Senator Moynihan was telling me that part of the fun of being a Member of the House or of the Senate was, if life got boring, you would just walk across the Capitol and watch a Supreme Court proceeding. So there was a greater measure of—I do not know what you would call it, but—

Mr. SERRANO. Now, it is a little different. If you want to see a real rush, just check the minute the last vote takes place when every Member goes running back to their districts.

RESTORING HOURS AT THE ARCHIVES

Last year, one of the issues that we discussed was the extra hours, of restoring the hours. The subcommittee took care of that, and that was very important for this committee. Now we notice that there is no funding request for those hours. Does that mean that you might have to cut back again, or are we looking at a problem? Because, as you know, the subcommittee is very clear that we wanted those hours restored.

Mr. WEINSTEIN. We not only have the funds to restore the hours this year, Mr. Chairman, but thanks to your generosity and to the

generosity of the Congress, we also have the funds to hire a dozen new archivists and to establish a training program and basically improve the services available. So that will start on April 14th. It has taken some time just to gear it up, but all of this will begin on April 14th.

Ms. THOMAS. Yes. As long as our base is funded at the level that was requested by the administration, then the extended hours and the restoration of the hours and the additional archivists are funded.

Mr. SERRANO. Okay. That is good to know.

FOIA MEDIATION OFFICE

Another issue, as you know, is that the President signed legislation late last year to establish an office to mediate disputes between government agencies and individuals requesting access to government information under the Freedom of Information Act. However, the administration's budget request for fiscal year 2009 includes no funding for this office at the Archives but instead requests funding to house the office at the Department of Justice.

In order to establish this office at the National Archives as the law requires, how much of an increase would be needed in the operating expenses account?

Mr. WEINSTEIN. Chairman, I think you can understand that, since the administration has basically taken another course in this regard, NARA cannot take action on this mission until there is the ability to—well, until we have been authorized to do that by law. We have not yet been authorized in that regard. The administration has gone in another direction.

Mr. SERRANO. But you are authorized by law to establish it within the Archives. And the fact that the administration may be going another way, we still, I think, have to make provisions for the establishment of this office within NARA.

Mr. WEINSTEIN. I think, if it comes to the fact of there being agreement on what the process is, you would find NARA capable of doing this. However, with the administration pulling this direction and with Congress pulling that direction, I can only guarantee one thing, which is that my arms are going to pull a little bit.

Mr. SERRANO. I understand. We certainly do not want to put you in that situation, but I think it is pretty clear what the congressional intent is. I cannot for the life of me understand why the administration is funding it into the Justice Department. Since the Justice Department is the administration's advocate in Freedom of Information Act disputes, wouldn't it be, in your view, a conflict of interest to house this office at the Justice Department? Or would you rather not comment on that?

Mr. WEINSTEIN. Well, with respect, I would rather not comment on that.

Mr. SERRANO. I understand.

Well, let me just, for the record, say that it was the intent of Congress to house it within the Archives, and we are going to follow that up because we do not want this to be handled improperly. We felt that this was something that needed to be done. The President signed it into law, and that is the way it should be implemented.

MISSING WHITE HOUSE E-MAILS

Professor Weinstein, I would like to ask you about the subject of the missing White House e-mails. As you know, a White House analysis of its records management system identified over 700 days in which e-mail records seem either impossibly low or completely nonexistent. Last September, the General Counsel of NARA wrote that NARA still knew nothing about the status of the missing White House e-mails. In late February, you testified before the House Oversight and Government Reform Committee on this issue.

Has NARA made any progress since then in terms of getting cooperation from the White House on finding copies of the e-mail backup tapes or computer hard drives?

Mr. WEINSTEIN. I would say that we have made progress but that we do not at this point have a complete accounting, and I would say that we are moving in that direction. If it is at all possible, Mr. Chairman, I would like to—Chairman Waxman has been very active on this front, as has Congressman Davis. We have met with them and with the White House folks on several occasions. It would be helpful to us—we have another meeting scheduled in the next week or two—if we see what happens between now and the next week or two before I make a firm statement on that issue.

Mr. SERRANO. You are saying you would rather have a private meeting in the next couple weeks?

Mr. WEINSTEIN. Let us see what happens in the next week or two.

Mr. SERRANO. Professor Weinstein, I want to be clear that I understand what happens when an agency or the Congress is dealing with the White House, any White House for that matter, not just this White House—this one may believe in secrecy a little more than other past White Houses—but historically, any White House, any administration. So we do not want to put you in a situation of making statements you do not want to make.

When you say you have made progress, is this progress in obtaining records or progress in obtaining knowledge about these 700 e-mails?

Mr. WEINSTEIN. I would say progress in obtaining knowledge, but I would also say that it is my impression that Chairman Waxman and Congressman Davis have taken the lead in a bipartisan way in ensuring that progress should be made with monthly meetings between the White House and with NARA, and they are very firm on that point. We are prepared for these monthly meetings. NARA participated in one hearing and provided the committee documents and responses to requests, and it continues to meet and to work with the Oversight Committee. NARA also continues to work with the Executive Office of the President on this and related issues in anticipation of the January 20th, 2009, transition.

I would simply say that the meeting we have coming up in mid-April is a very important one to basically examine how much progress has been made and will be made. I would respectfully request that we provide you and committee staff with a fuller account of this as soon as the meeting has taken place.

Mr. SERRANO. I accept that, and I appreciate your sensitivity of the issue.

Mr. Regula.

INTERNATIONAL ARCHIVAL SYSTEMS

Mr. REGULA. Thank you, Mr. Chairman.

Do other countries have archival preservation to the extent that we do? Do they have a similar agency?

Mr. WEINSTEIN. Yes, they do, Congressman. There are similar departments. To some extent, some countries are ahead of us in certain areas. Some are not quite where we are. We have a newly active group called the International Council of Archivists, of which there is now a caucus of the major democracies within that group. We are part of that process. So, in the last year or two, we have made great progress in this regard, but my former deputy, Dr. Bellardo, as you know, is now our representative on that.

Mr. REGULA. So there is a sharing of archiving techniques and information, et cetera, internationally?

Mr. WEINSTEIN. No question. No question. I would say also, this is extended out to some new programs and new initiatives that we are developing, including one in which we have brought together the Israeli archivists and Palestinian archivists. We have never done that before. Each have problems and issues—training issues and other issues—within their own circles, and we have basically offered to work with them all on these issues. So we are taking an active role internationally.

AMERICAN HISTORY EDUCATION

Mr. REGULA. There is much written about the inadequate level of American history being taught in our high schools today, partly because, perhaps, the leadership in education does not realize the value of history. This is a joke: What is the name of the history teacher in U.S. high schools? The answer is, Coach. I think that is a problem. Jokes aside, I am concerned. Yet, in this age of Internet, access is easy.

What are you doing, if anything, to contribute to the history education of high school students? I think that is so important. Maybe the John Adams series has emphasized to some extent.

Mr. WEINSTEIN. Every facility of the National Archives, from the Federal Register to the Presidential Libraries to the regional Archives to the Washington facilities, every one of these facilities has an educational program that has been expanded in the last 2 or 3 years, and the programs are very varied. They range from the wonderful initiatives of the Truman and Eisenhower Libraries which mirror the White House situation room decision-making, these students find out how these issues were resolved and why; to the learning center that the Boeing Company in partnership with us helped put together, where we are bringing in dozens, hundreds of students to think through the historical issues that the country has faced; to the timelines, in our Johnson Library, Presidential Timeline, which is now a very important educational instrument nationwide.

As to all of these instances, we are very grateful for the support we have received financially from the Congress and from the private entities like the Boeing Corporation. All of these entities are designed to show the focus on education, on history education, by

using documents to understand history, and they are having an impact slowly.

Mr. REGULA. If I were talking to high school teachers, particularly history teachers, could I suggest to them that they might contact the Archives, and you would have interesting publications you could send them to illustrate how they could access this tremendous resource?

Mr. WEINSTEIN. We welcome them 24/7, every day of the year. Just get in touch with us. We will have something that can be of use in their programs. We are now in contact with many of them.

Mr. REGULA. That is very interesting. I think it is an important role.

HISTORICAL INFORMATION PRIOR TO THE ARCHIVES

Incidentally, I am curious because of the John Adams series that has been playing on HBO, and we have these books by McCullough on 1776 and John Adams. Now, you said you are going to have your 75th anniversary.

Mr. WEINSTEIN. Right.

Mr. REGULA. What about the history, the information prior to that time? That is part of our Nation's timeline. How do you get the material that covers the period prior to this 75 years?

Mr. WEINSTEIN. Well, call Dr. Billington, and he will put you on to a great deal of this material. The Library of Congress, the Smithsonian. There are multiple sources of information. We do not rule out dealing with information that precedes 1934. That is just when the Archives was built.

Mr. REGULA. So, even though you are only 75 years in existence, you reach back and gain as much of that period as possible in your archival records?

Mr. WEINSTEIN. We have had a very good, cooperative program with our Canadian friends. I just went to Israel with our archivists. There is this collaborative effort. The Brits are now getting involved in this, as are other countries as well. But in the Canadian case, we are doing an exhibit that opens in May, and it will come here to Washington in October at the Canadian Embassy. It is on the Treaty of Paris and, basically, the result of that treaty is that the whole transformation of North America—

Mr. REGULA. Right.

Mr. WEINSTEIN [continuing]. Kind of goes in this direction, and we go in that direction all at the same time, and it has never been understood as a whole. We are bringing a new perspective to that, and we are going to take on projects of this kind, which can train students and teachers as to how to use these historical documents and how to understand history more effectively. That is a major portion of what we are doing now.

ARCHIVES AS A RESOURCE

Mr. REGULA. As to authors, such as David McCullough, or the film producers, such as those on HBO who produced the John Adams series, do they use your resources as a basis for what they do?

Mr. WEINSTEIN. I hate to speak for David—he is a good friend—but I think you will find, if you ask David or if you ask Ken Burns,

as to his World War II series, the answer would be yes, in a very strong way.

Mr. REGULA. I would think it would be an invaluable resource to those that make historical series, such as Ken Burns and David McCullough.

One other question, Mr. Chairman.

REPAIRS AND RESTORATION OF PRESIDENTIAL LIBRARIES

In 2008, we provided \$20 million for repairs and restoration to the Presidential Libraries of Nixon, Roosevelt, Kennedy, and Johnson. What is the status of these improvements that are undergoing, I assume, as a result of that allocation?

Mr. WEINSTEIN. Well, we are finishing up the Nixon library. A new building of the Nixon library was called for, and that should be done a year from now.

Ms. THOMAS. We are at the point with the Nixon addition of having—the bids were received, actually, this past week, and we are beginning to evaluate those bids now. We expect to let construction contracts in May, and it will take about 18 months to build the addition and then maybe another 8 to 10 months to get all of the records moved out to California.

Mr. REGULA. Will this action go beyond making physical improvements to the facility? Will it include additional materials being put into the facilities of these four Presidents?

Ms. THOMAS. For Nixon, it will allow us to ship the records that have been located at College Park at Archives II out to California.

Mr. REGULA. Okay.

Ms. THOMAS. Some of the artifacts have already been moved into space that the Nixon Foundation renovated, and they have provided storage area for it, but there was not enough room to renovate within the existing facility to take all of the textual records, so that is what the addition will provide, storage for the textual records. That will allow us to move all of the Nixon papers eventually out to the Yorba Linda facility.

For the Johnson Plaza, which is another one of the projects that was funded in 2008, it is the last installment, the last Government installment on the repair of that area at the Johnson Library. I think that they anticipate that they will be finished by February 2009, and we are basically doling out the funds as they need them to do the project.

As for the Roosevelt Library, the funding in 2008 was to finish the design of the renovation of that library. Some funds had been provided before that to start the design process, and this will allow us in this year to complete the design of the renovation.

Mr. WEINSTEIN. Let me say something about the Roosevelt records. I took a tour of that place not 2 years ago. It was desperately in need of repair at every level, just from one end of the basement to—just basic maintenance, and that is getting it now. So that is becoming done. In the Kennedy Library, we are getting started on the extension. Basically, that money has gone to purchasing the land that is needed.

Ms. THOMAS. That is what this year's project is, to buy the land that will allow us to build an addition onto the library. That will provide the records storage for a lot of the museum materials that

are now stored off site, and it will help us improve storage conditions of the papers within the library because they are, frankly, crowded. Sometimes they are in the aisles. It is not a good situation.

Mr. REGULA. That would expand scholarly access, would it not?

Ms. THOMAS. Absolutely.

MILITARY CONFLICTS AND PERSONAL HISTORIES

Mr. WEINSTEIN. Let me make a point if I may, Mr. Chairman and Mr. Regula, about how one learns history.

You were asking earlier about expanding the knowledge base of history. Last week, there was a story in all of the papers about bringing in a company called Footnote, which we work with, which digitizes a number of our Vietnam War records online, which is now basically managed by a technical process by which every name on the wall, on the Vietnam wall, has a file attached to it, which will expand and explain to relatives and friends and interested historians and scholars who that person was, what that person did, and what that person's life was like. We are very proud of the fact that that has come together at no cost to those who use our facilities in that regard with the cooperation of the private sector, and that has expanded our knowledge base for the Vietnam era history significantly. We look for bargains, if you will, in that regard. We have to. We have to.

Mr. REGULA. Thank you, Mr. Chairman. I will have questions for the record.

Mr. SERRANO. Thank you. I may also say that the Archives played a role in, almost a mediation, when Ken Burns, who I think is just fabulous, did the piece on World War II. There was a lot of criticism that no statement had been made about the role of Hispanic soldiers during World War II, and he agreed and the folks agreed to go back. We know that the Archives played a major role in the addition, so what you finally saw on the screen was what had been edited, if you will, edited in the sense that they added information to it, and we know the Archives played a major role in that, and we thank you for that.

I always say "our newest member." Although, he is having a fabulous attendance year, and this counts. You may end up having a rookie season on our committee close to what Robinson had in his first year.

Mr. BONNER. Thank you, Mr. Chairman. I was excited when I heard you were—not leaving the committee—but were going on the ticket, but I am sorry that I fell prey to your April Fool's joke.

Mr. SERRANO. Do you think I would help him?

Mr. BONNER. I know you would in Alabama, yes, sir.

Mr. SERRANO. Actually, he is more pro-immigrant than I am. No, I am only kidding. I am only kidding. That is the way to kill him. Just remind them he is pro-immigrant. Thank you.

Mr. BONNER. Thank you, Mr. Chairman.

Professor Weinstein, since so much has been mentioned about the National Archives' role in Ken Burns' film on the war, as the Member who represents Mobile, Alabama, one of the four cities Mr. Burns' featured, I want to thank you for the role that you all played in that. It was a proud moment for the Nation to see so

many men and women from that important chapter in American history have a chance to put their voices on the record, and I think that what you provided certainly made it a much more comprehensive production.

Mr. WEINSTEIN. Thank you.

PRESIDENTIAL LIBRARY ATTENDANCE

Mr. BONNER. I think you indicated in your statement or I read somewhere that the Archives owns and operates 13 Presidential Libraries. What kind of attendance are we seeing at those libraries? I am sure some are, probably because of their locations, perhaps, getting more traffic than others, but what kind of records in terms of people coming in and out of those could we look at?

Ms. THOMAS. Well, we may have to provide the numbers for the record since I do not think either one of us has got them on, you know, the tip of our tongues. However, libraries go through cycles. Obviously, some of the smaller and older Presidential Libraries, like the Hoover Library, evolve over time and become more of a service to their local communities and go beyond just the study of President Hoover to the community at large and the impact that he had on the area. The Eisenhower Library, too, is in that point in its history, I guess.

You get, obviously, a lot of researchers coming into the most recent library, in the Clinton library, filing a lot of FOIA requests, trying to get access to the records as soon as they can. There is a lot of interest in the museum there, and I do not think that there has ever been a time when the attendance at the Kennedy library has dropped off. That is assisted by the fact that it is in a major city with a lot of population and in a city that draws a lot of tourists, so location does have a lot of impact on whether they continue to be a big draw or whether they tend to trail off a little bit like Hoover's.

Mr. WEINSTEIN. If you want your Presidential Library to be at the top of its form, attracting the maximum number of visitors, there are three things:

First of all, it helps to keep your President alive, a live President who comes in from time to time and whose family comes in, who can mingle, who can raise interest in the general public nationally in the area.

Secondly, location, location, location. It is the worst mistake one can make in picking his library without looking at the location. Can people get to the library easily? Are there other attractions in the area that other people can go to so that it becomes a day trip or a week trip and not simply some 500-mile out-of-the-way trip to the place.

Finally, to what extent have you been creative, "you" being people at the Presidential Library, in using your foundations that call attention to the library and in developing relations with universities in the area?

They are just matter-of-fact things. If one has paid careful attention to all of that, then you have done everything you can.

FUNDING OF PRESIDENTIAL LIBRARY FOUNDATIONS

Mr. BONNER. Well, the foundation part of your answer, Professor Weinstein, raises an interesting question because a lot has been written about who, prior to the National Archives becoming owner and operator of these libraries, helped pay for them during their inception. I know a foundation is often involved in funding the construction and in helping to run libraries while contributors to a foundation are sometimes kept confidential, and that has been the source of some controversy in recent months.

Do you have an opinion about whether or not funding to a foundation should be more transparent and open, and whether or not donors should be disclosed?

Mr. WEINSTEIN. I do not think we have any objection to identifying donors to foundations. I think, at some point, it becomes less than helpful to identify the donors of the Eisenhower Library, long dead and so forth. In the early years after a Presidential foundation takes shape, I think, if I am not mistaken, we would not object to that.

RECOGNIZING THE MILITARY SERVICE OF HISPANICS

Let me, if I may, go back, because you and the Chairman said something before that I want to respond to. It had to do with whatever role we played in trying to get people talking to one another, getting a dialogue started between Mr. Burns and his colleagues on one hand and Hispanic leaders on the other. It was easy in this sense for us because both sides wanted to talk. They wanted to express their strong support for the purposes of the film, and they tried to make suggestions as to how it might be changed to make it more impressive.

What we did more than anything else that, I think, sent a signal to people is that we invited two distinguished veterans—I will not mention their names here—to come to our Fourth of July celebration, which we do right on the steps of the Library. One was a decorated combat photographer, not Hispanic. One was an Air Force lieutenant colonel, Hispanic. They worked together to preserve the model for others to begin that discussion. I do not know what else happened, but that is what we did, and it worked from our point of view.

“NATIONAL TREASURE” FILM

Mr. BONNER. It did work. I guess the only thing I would add to what we have talked about this morning would be just a question that is sincere in its motive even though it may sound trite when I throw it out to you.

The chairman indicated that this weekend he saw large crowds, and you have indicated there are large crowds here at the National Archives when people come to Washington, D.C.

How has the movie “National Treasure” helped put you on a tourist map, say, compared to 3 years ago? Have you seen an increase in interest because of Hollywood?

Mr. WEINSTEIN. Can we prove it? No. Have we seen it? Yes. Have we seen it in spades? Basically, the movie put us on the map for a lot of visitors. The question I had to answer more than any other

question the first year I was an archivist was, "Oh, you are the National Archivist. Do you work for the Smithsonian or for the Library of Congress?" I do not have to answer that question. So, yes, the movie "National Treasure" was an enormous help, and if we could step outside, I would tell you the things we would do if we could only get them to come back and do a sequel.

Mr. BONNER. Well, as the father of a 12-year-old and of a 10-year-old who watched that movie repeatedly, when they came to see me in Washington a few weeks later, it was the first place they wanted to go.

So, Mr. Chairman, thank you very much.

Mr. SERRANO. Thank you. Thank you.

ELECTRONIC RECORDS ARCHIVES PROGRAM

Let us talk about Electronic Records Archives program.

With regard to the program, I understand that there has been some progress to report but that their initial operating capability has been pushed back from September 2007 to June 2008, that there has been at least \$14 million in cost overruns and that the contractor has had to replace a significant number of his own staff working on the project.

How confident are you, Professor, that the program will not experience any more setbacks, especially as NARA prepares to receive the electronic records of the Bush administration just over 9 months from now?

Mr. WEINSTEIN. Congressman, I am going to let my colleagues handle that, but I want to say, maybe, a few points of a general nature first.

When we began experiencing difficulty and when it was brought to our attention, our first thought was not, how do we bury this, or how do we hide it, or how do we avoid having our overseers in Congress and appropriators not look at them? Our first thought was, who do we tell, the GAO, the congressional committees? You can check this out with your own staffs. Are we totally candid? What can we do to correct this in a minimum amount of time and with a minimum amount of damage to the system? That was our thought. That has been the impulse.

This is a simple explanation. We meet every week. All of the senior leadership of the National Archives is involved in this. We meet. We go over things precisely. We demand the replacement of certain people. We have made a few changes in the staffing at Lockheed and with the rest. We have done that. Things, by and large, have gone fairly well. How confident am I? I am much more confident than I would have been a year ago. I would like Martha Morphy to replace me on the griddle and talk.

Ms. MORPHY. I think one reason that we are much more confident about the program is because we restructured the contract. As a result of the restructuring, the way that the contract is set up is that there are small milestones or checkpoints that the contractor has to meet, and once they have met that checkpoint, we do extensive testing both functionally and technically to make sure that the pieces of the software are working and the funding is tied to the success of the testing.

So we have employed this over the past 8 months, and Lockheed has met every milestone. We do plan to deploy on time in June, at the end of June of 2008. At that point in time, we will be deploying the records management piece of the system. We will be working closely with four agencies to get their schedules in place and also to transfer records into the system. The goal of the first increment, besides getting the records into the system, is to make sure that they are stored safely. Then, in late November of this year, we are going to be deploying the additional capabilities that are required for the transfer of the Bush records, and that will include search-and-access capability down to the record level, and we will also be deploying the classified instance of the ERA system, but we really feel, just based on meeting those milestones, that we are on schedule and within cost.

Mr. WEINSTEIN. The point, Mr. Chairman, I would like to make is that we are not waiting for some magic moment when things will be seen to be all in place or not. We are dealing with the detailed minutia of this process day by day, week by week, and we are happy to lead members and the staff of the committee—we are happy to take anyone through our facilities here, whether they are facilities in the College Park area or the ones in West Virginia, and I am happy to give them the most extensive briefings as possible and to answer any questions they may have.

Mr. SERRANO. You are confident this time that this will work out?

Ms. MORPHY. Yes. Because of the change in staff that Lockheed put in place, this is actually a very good thing. They are much more experienced and a much more technical staff than we had previously, and I think we are seeing a commitment on their part to get the project done as well.

Mr. WEINSTEIN. Chairman, there will be no question as to whose responsibility it is if it does not move ahead on schedule. It is mine. It is mine. I am confident enough that it is moving ahead on schedule.

Mr. SERRANO. Thank you.

RECORDS PROCESSING BACKLOG

Professor Weinstein, you have noted in your testimony that the backlog of records processing continues to rise. How can NARA balance the need for backlog reduction and the need to have adequate staffing to pull records off the shelf and to provide other assistance for the public?

Mr. WEINSTEIN. The short answer to that question, Mr. Chairman, is difficult because we have conflicting comparatives here, but we are hopeful that with some of the changes that we have proposed, particularly in the area of dealing with records that are classified, that we can have an impact on the backlog. Let me give you a small and, my staff tells me, oversimplified example of this.

Until recently, if we were going to declassify records, we would have to talk individually to every person making a claim on that record, and we would have to do this step by step. For example, if there were an FBI file or a CIA file, we would have to spend months looking and going back and would have to go to any other agency that would have an interest in that. Now we are trying to

develop a system whereby we can collaborate with all of the agencies together. We can engage in dialogue as to whether something should be declassified or not. We classify way too much, and that has got to be dealt with. I think most of the agencies, interestingly enough, and others are very supportive because they, too, feel that they can develop a much more rational system for declassification, but step by step, we have no magic bullets here.

Mr. SERRANO. You feel we have classified too much?

Mr. WEINSTEIN. I think so over the years. I mean, you are talking to an archivist who for better or worse won the first freedom of information case for files of Government records from an Intelligence Agency back in the 1970s. It is now 2008.

PUBLISHING THE FOUNDING FATHERS' PAPERS

Mr. SERRANO. There is an issue that I know is of interest to Mr. Regula and also to Mr. Cramer and to this subcommittee. It is the amount of time it is taking to publish the papers of the Founding Fathers. For example, at the current pace, the papers of George Washington will not be fully published until the year 2023. The papers of John Adams will not be fully published until 2050.

What can you report at this point about NARA's plan to speed up the process for publishing these papers and for making them widely accessible?

Mr. WEINSTEIN. Mr. Chairman, David McCullough and I and representatives of the Library of Congress and others testified to the other body recently on this issue. We have been charged by Congress, as you probably know, to deliver a report on how we may speed up production and make the papers more accessible, particularly online for those who use it online. We anticipate the delivery of that report by the end of April. That is the commitment we have made as to when we will have that done. We anticipate the report will address each and every one of these issues, but I think it will be unfair to people who are talking to us prematurely to discuss the issue now. Bear with us until the end of April. I will be happy to come in even before that to give you and your staff—

Mr. SERRANO. At the end of April?

Mr. WEINSTEIN. Well, near the end of April. We will try to make it as early as possible. I will be happy to give you and members of the subcommittee and staff the full report once we have delivered it.

Mr. SERRANO. Okay. My concern, Professor—and you know that I am one of the easiest people to get along with—is that too many things may be put off for further discussion because they cannot be discussed now. I just hope that at a certain point the subcommittee at least gets the information it needs to know where we are going with those issues.

Mr. WEINSTEIN. You will have a full report this month.

Mr. SERRANO. Thank you so much.

There was a question also—I do not know if it is related to this, but there is an issue where some of these papers are being sent over to universities so that they can help in footnoting and in coming up with information.

Am I on the right track here?

Mr. WEINSTEIN. Yes.

Mr. SERRANO. But then that creates, maybe, a legal issue as to when they publish it. Does it belong to them or does it belong to you—to us? Or is that also under internal discussion now?

Mr. WEINSTEIN. Yes.

Mr. SERRANO. Okay. You are taking the Fifth on a lot of these, but that is okay. We will call it the Fourth.

Mr. WEINSTEIN. All of these questions will be addressed, including the one about where we are going with the e-mails and so forth.

Mr. SERRANO. Mr. Regula, I am sure you are aware that this is the issue where, if you just publish the papers as they are, the average citizen will not know what they were talking about in those letters or in those documents. So folks who know about these things look at them, and then they put them in the perspective of what happened at that time—“he wrote to him about this because they were trying to talk about slavery and this is what resulted.” That is fine, but then they publish it at the local university press. There is a question there as to, do they now end up owning that stuff? They could be collaborators, but I do not think they should own it. These documents belong to the public.

Ms. THOMAS. One thing to remember, though, is that most of the projects are not solely funded by Federal grant money. There are many private donors and contributions from universities that go into these projects, so you have got mixed funding sources, which complicates the issue.

Mr. SERRANO. I understand that, but just because somebody—and I am not being sarcastic but honest. Just because somebody takes the Constitution and cleans it up does not mean that they own it now because they cleaned it up. It is still my Constitution. They just helped clean it up as a public service.

Incidentally, one of the big arguments—and we mentioned Mr. McCain before, Senator McCain—is how much we earmark to schools so that every so often they can actually do something for the good of the country and not just for themselves.

Mr. Regula.

PRESERVING RECORDS OF EARLY PRESIDENTS

Mr. REGULA. Thank you, Mr. Chairman.

As I understand it, you have responsibility for 13 of the Presidents in the preservation of their archival materials; is that correct?

Mr. WEINSTEIN. From Herbert Hoover to the President.

Mr. REGULA. What about those prior to that time? Who takes responsibility for the preserving of records of the earlier Presidents?

Mr. WEINSTEIN. Well, I am afraid that until the mid-20th Century when Franklin Roosevelt made this whole process fashionable by donating his own papers to the Government by building a facility for himself, before that, it was catch as catch can. In the case of the Founders, of course, there were people all too ready to collect their papers, but in the case of many Presidents between the Founding generation and the middle of the 20th Century, papers were disposed of in a very disorderly fashion. Some Presidents simply burned their papers. Others took them home with them. There is no, “What happened?”

Mr. REGULA. There was history made there that has not been recorded.

Mr. WEINSTEIN. Yes, sir. I am afraid so.

Mr. REGULA. As to the issue of publicizing the records of the Founding Fathers, I can understand it is a complicated process and that there are those who want NARA to take a leading role in digitizing these records. Is that possible?

Mr. WEINSTEIN. We have digitized 28 million pages this year alone.

Mr. SERRANO. Wow.

Mr. WEINSTEIN. That is largely through public-private partnerships, through various firms that have basically met our specifications. We have been very clear as to public ownership, public use. We are not digitizing to lock up. We are digitizing to improve access by and large; 28 million online in 1 year.

Mr. REGULA. I notice the President's budget requests no funds for the National Historic Publications and Records Commission. I, personally, have felt that we should fund this. If there are no funds, that is one more step backwards in getting the historical records archived; is that correct?

Mr. WEINSTEIN. Well, I guess what I can say, Congressman, is that, without funding, a great many projects would be delayed.

Mr. REGULA. I am sure that is true.

Mr. WEINSTEIN. We wish it were otherwise.

Mr. REGULA. If we were to include money for this program, then you could achieve the goals of the National Historical Publications and Records Commission; is that correct?

Mr. WEINSTEIN. From your mouth to God's ear.

Mr. REGULA. Well, we have to look at that, Mr. Chairman.

Mr. SERRANO. We should.

Mr. REGULA. I have a number of other questions for the record.

Mr. SERRANO. I also have questions for the record.

I would like to recognize a member who has never thrown away a piece of paper in her life.

Ms. WASSERMAN SCHULTZ. You sound like my husband, Mr. Chairman. You do not know how true that is. If you look in the dictionary for "pack rat," you will find Debbie Wasserman Schultz.

CULTURAL HERITAGE MONTHS

It is good to see you, Dr. Weinstein. Thank you so much for all of your efforts, particularly on the highlighting of the cultural heritage months that we have adopted by resolution and that the President has issued via proclamation. The one that I am partial to, obviously, is the Jewish-American Heritage Month. You do such a wonderful job with each of those months in developing programming.

I wonder if you can talk a little bit about how we might expand your ability to do more, what your outreach efforts are beyond just encouraging people to come to the Archives to attend that programming and just if we are doing enough to help you advance those months.

Mr. WEINSTEIN. Congresswoman, let me start by saying all of you are doing enormous amounts for us. The fact is that the budget has increased significantly in the last 4 years, and I cannot tell you

how grateful we are. It translates into major stuff happening. So that is a big "thank you" for all of you and for all the staffs.

One of the things I should have done this year and did not—at least not yet, but I will start now—is have meetings with those who represent the various heritages and who would like to be acknowledged and responded to. I do not know how many folks would turn up for things like that, but it is worth finding out. I am going to start to have those discussions this week.

In connection with the Jewish Heritage issue, I think this was discussed before you got here, but one of the things that I started doing with my staff and with the Canadian archivists just last year is trying to develop a program that will bring together the Palestinian and the Israeli archivists, and we have done that. It is a positive, simple, constructive move designed to help technically both societies. So I do not know if that fits under Jewish Heritage or under Palestinian Heritage, but it fits somewhere.

What else could we do? I just do not know. I am open to suggestions, hopefully to cost-effective suggestions, but I am very open to suggestions.

Ms. WASSERMAN SCHULTZ. I look forward to hearing about your plans for the Jewish-American Heritage.

Mr. WEINSTEIN. I would like to come see you and talk to you about it.

Ms. WASSERMAN SCHULTZ. Please do. That would be great.

Mr. SERRANO. Thank you. The Bronx will play a major role in that month.

Ms. WASSERMAN SCHULTZ. I hope so.

Mr. WEINSTEIN. There was a column on the Bronx in the New York Times just a few days ago. You probably noticed that. Those of us who went to Yankee Stadium as kids are very interested in this new prominence given to the Bronx. The chairman and I share a passion for Puerto Rico. My wife is Puerto Rican, and her heritage is Puerto Rico. I am sure we will have something on Puerto Rican heritage in this program.

Ms. WASSERMAN SCHULTZ. Do you share the same passion for the Yankees?

Mr. WEINSTEIN. Yes. I grew up with the Yankees.

Ms. WASSERMAN SCHULTZ. Me, too.

HISTORY OF INDIVIDUALS

Mr. SERRANO. Professor Weinstein knows how to get a good budget out of me.

Before we let you go, we were just talking about history. It is so interesting. I know this is a very touchy subject if you do not prepare and say it properly. We all celebrate—and I mean this sincerely—the importance of Jackie Robinson. What is interesting about history is Larry Doby came up in July of that year, and it really proves the point of being number two. I mean, was the American League in the United States that Larry Doby found dramatically different from the one that Jackie Robinson found in April? Yet, you have to work hard to find information on Larry Doby. You know, it is very interesting.

Well, Professor, we thank you. We are not going to keep you any longer. We have some questions for the record. We applaud the work you do.

On a personal basis, as you know, one of the things that I find that troubles me the most about our political system or the way people behave toward elected officials is, if you come from a certain district, people want to classify you as only being an expert on issues having to do with that district. So, when you represent the poorest congressional district in the Nation, people want you to talk only about social services and so on. Yet, one of my favorite issues is this concern of mine that our country just does not pay enough attention to its history, the history of individual people. I mean, what you have done, for instance, this month in showing Lieutenant Jackie Robinson and what he faced as a member of the military before he took on the incredible fight that he faced as a baseball player. These are American stories.

I feel sadness to hear, as you told Mr. Regula, that before Herbert Hoover we basically kept no history. As I have told you, there is a lack of including the history of our territories—Puerto Rico, Guam, Samoa, the Virgin Islands—in the history of the United States. We need to know what role all of these people played—the Native Americans and so on. So some folks have questioned through our time: Why do you devote so much time to that? Well, I guess, if you do not know where you have been, you do not know where you are going. That is why I applaud the work you do. As long as I am on this committee, I will do whatever I can to help you do your work properly.

Mr. WEINSTEIN. Mr. Chairman, is it now the time for me to ask you for that billion dollars?

Mr. SERRANO. No. It would be your April Fool's joke to me, and it would be not nice to do that. We thank you for your testimony today. We thank all of you and for the fine work that you do and for your service to our country.

Mr. WEINSTEIN. Thank you to all of you. First of all, thank you for being here. You do not have to be here. There are many other places to go to, but you are here, and it shows an interest in history. It shows an interest in NARA and in the National Archives. We are all very grateful for that. We have 3,000 people, which is not a huge number, around the country, but I can assure you and this committee and Congress is getting valuable money out of this staff. These are not work-too-little people. These are people who work 24/7 throughout the year.

I want to tell you that I never in my wildest dreams imagined that a kid who grew up in the Bronx, whose parents are immigrants like yours, would end up with the privilege of overseeing this agency. I can tell you that I honor that privilege and will try not to disappoint you in any respect.

As to the heritage day, we have got to get started on that. I would like to see you and everybody here. Let us develop a robust program that does not have to be repeated year by year but which can be assumed. It is time for an event.

Mr. SERRANO. Well, I feel the same way coming from where I came to where I am today.

Mr. WEINSTEIN. Thank you, Chairman.

Mr. SERRANO. We thank you. Just remember that Ms. Wasserman Schultz is closely looking at Jewish Heritage Month—that is important—and that Mr. Regula has 1,357,000 volumes of papers. So we are very glad to have had you today.

The hearing is now adjourned.

Questions for the Record
Submitted by Chairman José E. Serrano

Questions for Allen Weinstein, Archivist of the United States

1. A great deal of attention was given last year to NARA's Information Security Oversight Office, specifically the refusal of the Vice President's office to comply with the Executive Order regulating the handling of classified information, even though the Vice President's office did initially cooperate with the Information Security Oversight Office back in 2001 and 2002. What is the current status of this situation, and has the Information Security Oversight Office made any more attempts recently to examine the handling of classified data by the Vice President's office?

Answer: By letter of January 9, 2007, and in accordance with section 6.2(b) of Executive Order 12958, as amended, "Classified National Security Information" (the Order), the Director of the Information Security Oversight Office (ISOO) requested that the Attorney General issue an opinion in this matter. By letter dated July 20, 2007, Steven G. Bradbury, Principal Deputy Assistant Attorney General, provided a response on behalf of the Attorney General. The response indicated that the Department of Justice would not be issuing an opinion as a statement on behalf of the President directly resolved the question at issue. Specifically, by letter of July 12, 2007, Fred F. Fielding, Counsel to the President, conveyed to Senator Brownback that "[t]he President has asked me to confirm to you that . . . the Office of the Vice President . . . is not an 'agency' for purposes of the Order."

Since that time, ISOO has not sought to exercise oversight over the Office of the Vice President and has instead focused our limited resources on oversight of Executive branch agencies with known significant responsibilities to classify, safeguard, and declassify information.

2. How much funding will be needed in future years for the Electronic Records Archives program, before the program reaches steady state?

Answer: According to the current project plan, ERA will reach steady state in 2012, the final year of the current contract. Based on known requirements, our current estimate of the cumulative funding required between Fiscal Year 2010 and Fiscal Year 2012 is between \$175 m and \$225M. Factors that could impact this estimate are unforeseen types of electronic records or greater than expected public access demands. NARA has documented all its high-level requirements

in the ERA Requirements Document and is working aggressively with the contractor to clarify those requirements at a level of detail adequate to support system design and development for those requirements. Currently, about 20 percent of the requirements documented in the ERA Requirements Document have been clarified. The remaining requirements will be clarified as allocated within the schedule in accordance with the incremental development of the system.

3. How much did NARA spend on outside contracts in fiscal year 2007?

Answer: In Fiscal Year 2007, NARA obligated \$198,190,809 on all outside contracts, excluding payments against Inter-Agency Agreements, expenditures using non-appropriated funds, and expenditures under the Micro-purchase Threshold.

4. For fiscal year 2007, how much did NARA rely on contracts that were not fully and openly competed?

Answer: NARA seeks to maximize competition in every acquisition and only uses other than full and open competition requiring written justifications in accordance with the Federal Acquisition Regulation (FAR) Parts 6, 8, and 13 when necessary. NARA follows the FAR directed sourcing required by FAR Part 8, especially in regards to the AbilityOne Program (formally referred to as the JWOD Program created under the Javits-Wagner-O'Day Act) to support physically and mentally challenged Americans find jobs. NARA also follows FAR Part 19 competition procedures (these allow for direct awards to 8(a) businesses without competition) to support the Small Business Administration's promotion of awards to small and disadvantaged companies. While these programs in essence limit sources, they are mandated programs and do not require any written limited source justification. These purchases totaled just over \$6.5M.

Other than the awards mentioned above, NARA used limited competition procedures in FY07 for 31 awards (totaling \$832,514) that were less than the Simplified Acquisition Threshold (SAT). Of these, 6 were awards (totaling \$403,328) greater than the \$50,000 threshold in question #5. These awards consisted of various proprietary software and equipment needs, requirements related to President Ford's funeral, maintenance of proprietary equipment, and specialized Human Resources support. NARA anticipates that certain proprietary items will present a recurring other than full and open competition environment. NARA seeks competition among vendors offering brand name commercial items when brand name justifications are used. However, there are

instances when the only vendor able to provide the necessary equipment or software is the original manufacturer.

In FY07, there were only 5 contract awards based on other than full and open competition, which were supported with written justifications and approvals in excess of the Simplified Acquisition Threshold in dollar value. Two separate purchases of specialized Kodak film were made for \$306,768 and \$209,579. NARA purchased a Dell Server Area Network upgrade for \$582,933. NARA executed a real property lease with Potomac Electric Power Company for \$119,692. Finally, NARA procured continued development, maintenance, and support services for the Archival Research Catalog (ARC) proprietary software at a cost of \$4,496,402 including option years.

Three of the Presidential Libraries are located on the property of various state universities. As such, the universities, through contracts with NARA, provide all necessary services for the facilities, including facility operation and maintenance, security guards, and landscaping. The following presidential libraries/museums utilize this arrangement: The Lyndon B. Johnson Presidential Library and Museum, the Gerald R. Ford Presidential Library, and the George H.W. Bush Presidential Library and Museum. The initial agreements that established the libraries led to the perpetual relationships between the particular universities and NARA. These are not viewed as standard limited source competition scenarios.

5. Please provide a listing of all of NARA's fiscal year 2007 outside contracts of \$50,000 or more, along with the purpose of each contract. In the listing, please indicate which contracts were not fully and openly competed.

Answer: Listing provided below.

FY07 Awards

Contract Number	Description	Order Amount	Not F&O
NAMA-07-C-0001	Ground and Janitorial	\$415,507.70	
NAMA-07-C-0006	IT Support	1,134,011.46	X
NAMA-07-C-0012	Purchase Shelving	1,564,890.65	
NAMA-07-C-0013	Purchase Furniture	66,808.88	
NAMA-07-C-0014	Mechanical Maintenance Services	701,720.00	
NAMA-07-D-0001	Technical Support Services	131,623.82	
NAMA-07-D-0003	Archival Storage Boxes	143,683.70	
NAMA-07-F-0001	Utility	258,000.00	
NAMA-07-F-0002	Utility	57,600.00	
NAMA-07-F-0003	IT Support Services	4,219,883.54	
NAMA-07-F-0004	Telecommunication Maintenance	994,048.13	
NAMA-07-F-0005	Telecommunication Upgrade	60,312.71	

FY07 Awards

Contract Number	Description	Order Amount	Not F&O
NAMA-07-F-0006	IT Support Services	355,244.55	
NAMA-07-F-0015	IT Support Services	225,000.00	
NAMA-07-F-0018	Utility	1,249,342.38	
NAMA-07-F-0020	IT Software Maintenance	164,060.71	
NAMA-07-F-0021	Utility	600,000.00	
NAMA-07-F-0022	IT Maintenance	1,004,604.75	
NAMA-07-F-0024	Purchase IT Equipment	52,510.92	
NAMA-07-F-0026	Research Services	55,500.00	
NAMA-07-F-0028	IT Equipment Maintenance	205,668.73	
NAMA-07-F-0030	Purchase Film	86,814.60	
NAMA-07-F-0032	Support Services	2,726,190.00	
NAMA-07-F-0056	O&M Services	71,791.56	
NAMA-07-F-0058	Purchase Film	118,594.50	
NAMA-07-F-0063	IT Software Support	356,743.88	
NAMA-07-F-0071	4th of July Event Support	56,492.09	
NAMA-07-F-0076	IT Software Agreement	1,123,799.69	
NAMA-07-F-0079	Purchase Film	209,579.32	X
NAMA-07-F-0080	Purchase Air Purifier Screens	178,360.00	
NAMA-07-F-0083	IT Software Maintenance	281,775.00	
NAMA-07-F-0085	IT Support Services	507,008.06	
NAMA-07-F-0086	IT Software Maintenance	373,798.00	
NAMA-07-F-0087	IT Software Maintenance	202,185.27	
NAMA-07-F-0088	IT Software Licenses	52,842.50	
NAMA-07-F-0089	Purchase IT Storage Upgrade	582,933.38	X
NAMA-07-F-0094	Purchase PCs	89,116.50	
NAMA-07-F-0098	C&A Security Testing Services	127,092.31	
NAMA-07-F-0099	Purchase IT Equipment	89,993.00	
NAMA-07-F-0111	IT Support Services	5,515,000.67	
NAMA-07-F-0114	Purchase IT Equipment	109,144.80	
NAMA-07-F-0116	Purchase IT Equipment	73,697.58	X
NAMA-07-F-0120	Purchase IT Equipment	69,597.21	
NAMA-07-F-0122	Purchase IT Equipment	54,720.12	
NAMA-07-F-0125	Purchase Software Licenses	63,360.63	X
NAMA-07-F-0130	Purchase Furniture	53,387.98	
NAMA-07-F-0132	Purchase IT Equipment	119,158.25	
NAMA-07-F-0133	Purchase Toner	55,911.45	
NAMA-07-F-0136	Purchase IT Equipment	2,003,375.74	
NAMA-07-F-0142	Purchase IT Equipment	60,447.05	X
NAMA-07-F-0143	Purchase IT Monitors	124,480.00	
NAMA-07-F-0144	Purchase Laptops	325,163.10	
NAMA-07-F-0146	Purchase IT Software & Equipment	268,230.74	
NAMA-07-M-0004	Purchase Radio Airtime	125,895.00	
NAMA-07-M-0006	Maintenance of Microfilm Reader/Printers	85,997.28	
NAMA-07-M-0025	Record Recovery Services	745,219.72	
NAMA-07-M-0030	Purchase Exhibit Services	53,251.00	
NAMA-07-M-0031	Record Recovery Services	85,600.00	
NAMA-07-M-0036	Support Services	73,854.20	
NAMA-07-M-0039	Purchase Air Purifier Screens	60,066.00	

FY07 Awards

Contract Number	Description	Order Amount	Not F&O
NAMA-07-M-0042	Purchase Film	301,190.40	X
NAMA-07-M-0047	RACO Conference	146,800.00	
NAMA-07-M-0056	Hispanic Internship Program	95,500.00	X
NAMA-07-M-0064	General Support Service	52,939.90	
NAMA-07-M-0067	Purchase Ladders	148,159.00	
NAMA-07-M-0073	Purchase Cameras	135,420.00	
NAMA-07-M-0075	Purchase Scanners	62,143.00	
NAMA-07-M-0077	IT Software Maintenance	93,989.00	
NAMA-07-M-0078	Purchase Workstations	586,027.00	
NAMA-07-M-0080	Purchase Workstations	250,000.00	
NAMA-07-M-0089	Purchase Workstations	731,654.00	
NAMA-07-M-0090	Purchase Workstations	162,000.00	
NAMA-07-M-0091	Purchase Cameras	584,520.00	
NAMA-07-M-0093	Purchase Film Scanners	1,460,829.00	
NAMA-07-M-0099	Purchase Software Licenses	123,000.00	
NAMA-08-M-0005	Membership	115,000.00	
NAMA-NAF-07-F-0005	Facility Repairs	194,897.82	
NAMA-NAF-07-F-0012	Purchase Furniture	106,808.00	
NAMA-NAF-07-F-0016	Purchase & Install Audio Visual Equipment	106,432.33	
NAMA-NAF-07-F-0017	Purchase Furniture	58,744.40	
NAMA-NAS-07-F-0002	Facility Repairs	205,811.98	
NAMA-NAS-07-F-0004	Facility Repairs	137,571.21	
NAMA-NAS-07-F-0006	Purchase Furniture	109,071.40	
NAMA-NAS-07-F-0009	Facility Repairs	96,512.00	
NAMA-NAS-07-F-0011	Facility Repairs	196,317.44	
NAMA-NAS-07-F-0018	Facility Repairs	310,000.00	
NAMA-NAS-07-F-0025	Facility Repairs	67,182.97	
NAMA-NAS-07-F-0026	Facility Repairs	52,787.70	
NAMA-NAS-07-F-0027	Facility Repairs	318,999.99	
NAMA-NAS-07-F-0028	Purchase Security Equipment	279,838.00	
NAMA-NAS-07-F-0029	Facility Repairs	137,984.00	
NAMA-NAS-07-F-0030	Facility Repairs	51,170.86	
NAMA-NAS-07-M-0001	Property Lease (Utility Company)	119,691.75	X
NAMA-NAS-07-M-0002	Storage Rental	221,760.00	
NAMA-NAS-07-M-0003	Property Lease	2,410,225.07	
NAMA-NAS-07-M-0004	Property Lease	2,419,121.50	
NAMA-NAS-07-M-0005	Property Lease	1,330,158.06	
NAMA-NAS-07-M-0006	Move Services	946,870.00	
NAMA-NAS-07-M-0009	Mold Removal Services	62,027.84	
NAMA-NAS-07-M-0010	Facility Repairs	1,485,000.00	
NAMA-NAS-07-M-0011	Facility Repairs	57,807.83	
NAMA-NAS-07-M-0013	Property Lease	554,100.00	
NAMA-NAS-07-M-0014	Federal Energy Management Services	179,199.00	
NAMA-NAS-07-M-0015	Federal Energy Management Services	658,036.00	
NAMA-NAS-07-M-0021	Federal Energy Management Services	383,524.03	
NAMA-NAS-07-M-0022	Federal Energy Management Services	52,917.39	
NAMA-NAS-07-M-0023	Facility Repairs	231,278.00	
NAMA-NAS-07-M-0025	Property Lease	191,134.00	

FY07 Awards

Contract Number	Description	Order Amount	Not F&O
NAMA-NAS-07-M-0029	Facility Repairs	247,190.00	
NAMA-NAS-07-M-0030	Facility Repairs	90,710.00	
NAMA-NAS-07-M-0032	Video Services	66,010.00	
NAMA-NAS-07-M-0037	Energy Conservation	190,000.00	
NAMA-NAS-07-M-0038	Energy Conservation	618,102.00	
NAMA-NAS-07-M-0050	Facility Repairs	310,000.00	
NAMA-NW-07-F-0011	Photographic Supplies	178,726.40	
NAMA-NW-07-F-0022	Photographic Equipment	72,650.91	
Grand Total		\$53,078,864.47	

6. How many contract employees now work in space with the regular civil service employees of NARA?

Answer: Approximately 430 contract employees providing IT, admin and other mission-oriented support work along-side the roughly 3,090 regular civil service employees of NARA. There are approximately another 600 contractors providing security and facility support throughout NARA facilities, but they do not necessarily work side-by-side regular civil service employees.

7. Please provide a list of how many contract and civil service employees now work in each major location (more than 100 total employees) maintained by NARA.

Answer: Listing provided below.

Facility (City)	State	NARA Employees	Contractors In-Space			Other Contractors			Total Contractors	Total All Personnel
			IT Support	Admin / Other	Sub-Total	Facility Maint.	Security	Sub-Total		
Archives II (College Park)	MD	886	135	158	293	83	15	98	391	1,277
Military Personnel Records (Overland)	MO	583	12	14	26			0	26	609
Archives I (Washington)	DC	325	2	7	9	61	26	87	96	421
Civilian Personnel Records (St. Louis)	MO	114	1	4	5			0	5	119
Washington National Records Center (Suitland)	MD	92		24	24			0	24	116
SW Regional Archives (Fort Worth)	TX	68		43	43			0	43	111
TOTALS		2,068	150	250	400	144	41	185	585	2,653

Questions for the Record
Congressman Ralph Regula, Ranking Member
April 1, 2008

Ft. Worth Archival Facility

1. Please provide a status on the new archival facility planned for the Ft. Worth, TX.

Answer: Currently, NARA is planning a competitive solicitation process to receive bids to build a new Southwest Regional Archives.

2. Are there benefits to locating in the Fort Worth Cultural District?

Answer: The Fort Worth Cultural District has desirable features, which would make it a strong candidate in any competitive solicitation process.

- The Cultural District is the home of several major museums, including the Amon Carter Museum, Kimbell Art Museum, and Fort Worth Science and History Museum, which attract millions of visitors annually and thereby afford opportunities to attract greater numbers of visitors to NARA if the Regional Archives were located there.
- This area provides easier public access because it was specifically developed to draw the public to the area through the grouping of similar cultural facilities and services and by providing associated support facilities, such as parking garages, which are required to make it a highly desirable end destination for the public. For these reasons, it is a desirable location for the Regional Archives to reach the public to make its holdings available for research and to provide a desirable venue for school and community access to the Region's educational programs.

3. Are there impediments to relocating the Fort Worth facility and if so, how should they be addressed?

Answer: Only one site, owned by the City of Fort Worth, is known to be vacant in the Fort Worth Cultural District and the City has indicated that it will only make the site available under a lease proposal from a 501(c)(3) nonprofit called Archives Holdings Inc. These conditions make a full competition held within the Cultural District difficult to conduct. Also, NARA determined that the lease offered did not meet the requirements for unsolicited leases and didn't qualify for an exception to a competitive solicitation process.

However, broadening the competition to more areas could induce more potential locations, which could produce higher benefits and fewer costs, than a location within the Cultural District. An open solicitation would allow for a fair evaluation of costs and benefits of all potential locations, which is the best way to ensure the location that provides the government with the highest return on investment is chosen.

Presidential Transition

On January 20, 2009 all of President Bush's records will become the legal property of the National Archives. Eventually, these records after processing will be stored in a Presidential library to be established by private funding.

In the 2009 budget request, the Administration has requested \$6.3 million and 24 staff to operate the Bush Presidential Materials Project.

1. Briefly describe how this transfer happens logistically?

Answer: The National Archives coordinates the move of the Presidential records and artifacts to a temporary site located near the future site of the Library. In this case, the National Archives has leased space in Lewisville, Texas for the storage of records and NARA staff offices which will be ready for occupancy on Oct. 1, 2008. The Department of Defense (DOD) provides transportation and service men and women (reimbursed by NARA) for the packing and transportation of the records and artifacts. NARA staff works with the Office of Administration and other White House offices to facilitate the transfer of the records of the Administration, including electronic records. During the last year of the Administration, NARA staff gathers information about the quantity and format of records to prepare for their transfer and storage. With White House approval, NARA and DOD will begin moving records and artifacts in the fall. Most of the records will move in the December-January timeframe. Normally, NARA would complete a presidential transition move by the end of January.

2. I assume that \$6.3 million is the first year's appropriation in a multi-year project. Would you give the subcommittee a feel for future year costs associated with a Presidential transition? For example, how much per year did we spend on President Clinton's transition?

Answer: In FY07 we began planning for the transition and the Bush Library. We received \$485,000 in FY 2007 to begin hiring staff for the Library. In FY 2008, we received \$3.265 million for developing the temporary site, developing infrastructure, e-records support, and hiring five additional staff members. Our request for FY 2009 includes funding for the lease of the temporary facility, moving the records to Texas, security, staff, infrastructure and other items associated with the transition and start-up of the temporary library site. When the Library is constructed in three to five years, we plan to move the records from the temporary facility to the library and anticipate increased operational and security needs at the new library.

During the transition from the Clinton Administration, \$5.9 million was appropriated for Clinton transition and the Library in FY 2001, followed by and additional \$2.6 million in FY 2002.

3. Where will the 24 new staff be located?

Answer: The 24 new staff will be located at the temporary project site in Lewisville, TX.

4. Could you discuss how Freedom of Information Act requests will be processed?

Answer: In accordance with the Presidential Records Act, the records will not be available to FOIA requests until 5 years after the end of the administration, or in this case, January 20, 2014. During this 5-year period the records are not open to the public and are available only by special access requests from the White House, Courts and the Congress.

5. Prior to January 20, 2009, does NARA have role in preserving the Bush Administration's records?

Answer: NARA has an advisory role on records management, provides courtesy storage for incumbent presidential records and artifacts, and coordinates their safe move to the project site. Under the Presidential Records Act, the Archivist is notified and gives his view on any potential disposal request for incumbent presidential records.

WEDNESDAY, APRIL 2, 2008.

UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

WITNESS

LINDA M. SPRINGER, DIRECTOR, UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

CHAIRMAN SERRANO'S OPENING STATEMENT

Mr. SERRANO. The subcommittee will come to order. I welcome you to this hearing of the Financial Services and General Government Subcommittee.

Today's hearing is on the fiscal year 2009 budget request of the United States Office of Personnel Management. The director of OPM, Linda Springer, is here with us and we welcome you.

Director Springer has been at the head of the agency since 2005, and this is the second time she has appeared before the subcommittee. This is the second year of the subcommittee, so that makes a lot of sense. Last year you testified at our hearing on issues in the Federal workforce at which we discussed the many challenges the government faces in recruiting, training and retaining qualified employees. We hope to discuss these important issues again today well as get a better understanding of your fiscal year 2009 budget request.

The Federal workforce is changing and OPM has a leadership role in managing this change. We must therefore be certain that OPM has the capabilities and resources to do this job.

OPM has asked for a discretionary budget in fiscal year 2009 totaling \$228,900,000, which is a \$50 million decrease from the fiscal year 2008 appropriation. Aside from this relatively small discretionary budget, OPM also has responsibility for managing tens of billions of dollars in retirement, health, and life insurance trust funds for Federal employees. An important component of OPM's budget request is \$15.2 million to continue the retirement system's project. The goal of the new retirement system, also known as RetireEZ, is to transform OPM's retirement recordkeeping and annuity processing so that Federal employees and retirees are better served.

The first stage of implementing RetireEZ occurred in February, and the subcommittee looks forward to discussing this as implementation is moving forward. I am sure we all share the opinion that the timely and accurate payment of employee retirement benefits is an extremely high priority. Do you handle the congressional pensions also?

Ms. SPRINGER. Yes.

Mr. SERRANO. So it is important that they deliver those checks on time.

Mr. REGULA. Absolutely.

Mr. SERRANO. Especially next January for you.

Mr. REGULA. Right. And I am on the old system.

Mr. SERRANO. Don't remind me of that.

And we need to be certain that RetireEZ will deliver on this promise made to employees and retirees. The success of this new system is particularly important in light of the significant number of retirements from the Federal workforce that are expected in the near future. OPM's retirement system needs to be ready to address this surge.

The increase in retirements will also have an effect on human resource management across the government. The expected loss of experienced employees, or the brain drain, from Federal agencies means that agencies must work hard now to recruit the best and the brightest people.

The capacity to recruit such talent will depend on the opportunities and work environment that agencies have to offer and also on the ability of this government to provide competitive compensation that is commensurate with employees's abilities. Congress has an important role in this regard since we must ensure that the funds are available to offer competitive salaries and benefits. Congress must also support funds for employee training and investment as well as support policies that promote equality and fairness in the workplace.

Unfortunately, the President's discretionary budget request across most government agencies falls short of providing the resources that are needed to ensure a strong Federal workforce. This troubles me because I believe this budget lacks the recognition that we must invest in a strong Federal workforce now in order to avoid costly problems in the future.

I know, Director Springer, that it is not your fault that the overall discretionary budget is, in my opinion, inadequate, so is this is not a criticism of you or OPM, and we want to be clear on that. However, I raise my concern to you because OPM needs to be a forceful advocate for Federal workers in all respects, including budgeting for human capital needs within the government as a whole.

So we welcome you here today, we look forward to your testimony. We look forward to working with you to make sure that our Federal workforce is strong. We in this committee try not to bring personal items to the table, although before the Supreme Court Justices, I asked them whether a person born in Puerto Rico could run for President. They said if they settled McCain they could settle Serrano. Unfortunately, Mr. Regula is leaving Congress and come January, I want no problems with his payments. The man has been here long enough to earn every single bit of that money. He will be out there on the farm providing good milk and good beef for us in the city. And I am very happy.

Mr. REGULA. What an introduction.

MR. REGULA'S OPENING STATEMENT

Mr. REGULA. Thank you for the commercial, Mr. Chairman. Well, I hope I will be out there helping OPM recruit talented young people. Because the success of any enterprise depends on people, whether it is an education system, good teachers make all the dif-

ference in the world. I used to say when I was funding the Department of Education, good principals, good schools, and good teachers, good schools. And effective agencies depend on talented people.

The challenges of the Federal Government today are ever changing and ever new. Terrorism, we did not hear about that 15 years ago, pandemic flu, competitiveness, an aging workforce, all of these challenges are really in your department. And the agencies have to depend on you to help them recruit good people.

And what I would hope to do is to make young people, particularly those that have a political science inclination, to realize the potential that exists in the Federal Government as well as State and local government. I remember, and I said this to any number of classes of students I have talked to, that you said when you were here last year, that 60 percent of the Federal workforce will be eligible to retire in the next 10 years. This is the baby boomers. And that is going to open up a lot of new jobs. It also it is going to create a huge need for qualified people to fill those jobs. And so your agency has an extremely important role to play in ensuring that there are good people available in the Federal Government to make this system work.

I am interested that you are hosting a career fair in Columbus at the Ohio State University. I like that idea. I hope that I can help you get some more in Ohio. And perhaps some up my way. Because people need to understand the opportunities that exist. So we appreciate your leadership and I look forward to hearing your testimony this year.

Mr. SERRANO. Thank you, Mr. Regula. Director Springer, we hope that you stay within the 5-minute testimony period. Your full statement will go in the record. And then we will be able to have a back and forth on the issues. Thank you for being here with us today.

DIRECTOR SPRINGER'S TESTIMONY

Ms. SPRINGER. Thank you, Mr. Chairman, and members of the subcommittee. I do appreciate the opportunity to appear before you again this year to discuss OPM's appropriation request for fiscal 2009. As you know, OPM does provide a variety of products and services to nearly 1.8 million employees in the Federal Government. Some of our products and services include managing health insurance for about 8 million current and former Federal employees and their families, administering retirement services as you have noted for nearly 2.5 million retirees from all branches of Government, and completing 90 percent of background investigations for contractors and for Government agencies.

We are requesting \$20 billion to carry out our mission in fiscal 2009. Of that total, about 99 percent, or 19.8 billion, is requested for mandatory programs with the balance of 228 million for discretionary activities.

The discretionary request reflects 211 million for salaries and expenses and 18 million for the Office of Inspector General. The total discretionary request reflects a net decrease of 15.4 million compared to the fiscal 2008 enacted level. I also want to note that OPM operates a revolving fund for the administration and operations of

a number of our programs including the Federal investigative services and our Governmentwide training efforts.

OPM's request does include funding to improve services that we provide to Federal employee annuitants and their families through our retirement and benefit programs, most notably. On February 25th of this year, OPM did begin the rollout of the automated new Federal retirement system, RetireEZ. This budget requests an additional 15.2 million for the continuation of that project. And we appreciate the support that you have given us in the 2008 budget and previously with respect to the program, and you will see a good return on your investment.

These funds will allow us to continue the conversion of the paper records to electronic format as well as continued implementation and rollout of the technology and the new system.

As administrator of the Federal Employees Health Benefits Program, one of the things we do is negotiate with all of the private insurance carriers to ensure the viability of the system. There are 283 health care plans that cover over 8 million people, as I mentioned earlier. Over the years, we have been pretty good at negotiating and maintaining our benefit levels while we have kept premium increases on average relatively modest. Compared to the private sector we had an average increase of 2.1 percent in premiums compared to 8.7 percent for the private sector for the year 2008.

In the area of human resources management, our 2009 budget will allow OPM to develop new workforce recruitment strategies and tools. It builds on the things that were mentioned as far as the on-site programs at colleges and universities, and we will be developing an end-to-end life cycle reform of the current recruitment and hiring process.

We are particularly proud—I want to note—of programs that we have initiated at three of the Nation's military hospitals across the country. In those programs, we provide on-site counseling, training and assistance to wounded warriors who are looking for job opportunities in the Federal Government. I get letters from those people saying that without this counseling, they were finding it difficult to break through the process. And so we are very proud of that.

In the area of ensuring oversight of agencies, we will be using funds to implement best practices in human capital management, making sure that agencies are complying with merit system principles, veterans preference and other standards that are the hallmark of how the Federal Government treats its people. And as you say, people are at the heart of what the agency's success is focused on.

I can tell you at the beginning of fiscal year 2008, 15 of the 26 major agencies that are scored in the President's management agenda have met those standards. That was zero in 2003, so we are making good inroads there. And most people, 99 percent of Federal employees, are at agencies that are meeting those standards. But we have to continue to be vigilant.

OPM will continue funding with this budget our HR line of business and enterprise human resources integration. Those support e-Government efforts that have brought us things like the e-Payroll initiatives going forward.

Our 2009 request will also help us provide a variety of ongoing services that relate to security activities and other compliance that we need to do as an agency.

Now, I mentioned the revolving fund. This covers ongoing services that are financed by other agencies through this revolving fund agreement. It is essentially a business service provision that allows us to provide various e-training products, professional development assistance, technical assistance in consulting on human resources management, as well as very notably the investigative services that we do for the purposes of security clearances and also making sure that people are suitable for employment.

For those revolving fund responsibilities, the budget includes an estimated \$1 billion in obligations; again, those are spread across other agencies' budgets that, in effect, are our customers.

The OPM budget request includes mandatory appropriations—as I have noted that is the biggest part of our budget—to fund the Government contributions to the health benefits and life insurance programs for our Federal annuitants.

I am happy to take your questions, but I do want to conclude by saying that OPM is proud of the broad role that we have in supporting the Federal workforce. By doing our job well, we believe every other agency and department will be better able to carry out their mission because in the end it is a function of people as you have noted. So again, I thank you for the opportunity to testify and look forward to your questions.

Mr. SERRANO. Thank you so much for your testimony.

[The information follows:]

Statement of
The Honorable Linda M. Springer
Director
Office of Personnel Management
before the
Subcommittee on Financial Services and General Government
Committee on Appropriations
United States House of Representatives
Fiscal Year 2009 Budget
for the Office of Personnel Management
April 2, 2008

Mr. Chairman and Members of the Subcommittee:

I appreciate the opportunity to appear before you today to discuss the Office of Personnel Management (OPM) appropriations request for Fiscal Year 2009.

As you know, OPM provides a variety of products and services to the nearly 1.8 million employees in the Federal Government. Some of our products and services include managing health insurance for approximately 8 million current and former Federal employees and their families, administering retirement services for over 2 million retirees from all branches of Government, completing 90 percent of background investigations for industry and Federal agencies, and administering career development programs. As the OPM Director, I am committed to successfully delivering on our responsibilities on a timely basis. In short, I believe the American citizens and the Federal civilian workforce expect us to get things done, and our FY 2009 budget request will allow us to do just that.

We are requesting \$20.0 billion to carry out our mission in FY 2009. Of this total, \$19.8 billion is requested for mandatory programs and \$228.9 million for discretionary activities. The discretionary request reflects \$211 million for Salaries and Expenses - including transfers from the Trust Fund Accounts of \$118.1 million - and \$18 million for the Office of the Inspector General. The total discretionary request reflects a net decrease of \$15.4 million compared to the FY 2008 enacted level. I also want to note that OPM operates a revolving fund for the administration and operations of a number of programs including our Federal investigative services and Government-wide training efforts.

Retirement Claims Processing and Benefits Programs

OPM's request includes funding to improve the services it delivers to Federal employees, annuitants, and their families through the retirement and insurance programs.

On February 25, 2008, OPM began the rollout of the first ever Federal electronic retirement system. The budget requests an additional \$15.2 million in No-Year Trust funds for continuation of this project. These funds will allow OPM to continue the conversion of millions of paper retirement records to electronic data and contract for the information technology needed for the system so that retirees can receive full payments once they separate from service eliminating interim payments at reduced amounts. At full rollout, employees will be able to model their retirement and initiate the process.

Federal Employees Health Benefits Program (FEHB)

As the administrator of the FEHBP, OPM will continue to negotiate and contract with private insurance companies that offer a broad range of health insurance benefits, including high-deductible health plans with Health Savings Accounts and consumer-driven health plan options. As such, OPM will spend \$26 million in FY 2009 to ensure the viability of the Program's 283 health care plans covering over 8 million people. As usual, OPM will continue to carry out tough negotiations with health carriers to contain premium hikes. Over the years these negotiations have resulted in employee premiums that are substantially lower than those of the private sector while maintaining benefit levels, and continuing to provide, improve, and expand tools so customers can make informed health insurance decisions. In fact, the FEHBP increase for 2008 was 2.1 percent, compared to an average 8.7 percent increase for the private sector and a 6.3 percent increase for the California Public Employees' Retirement System during that same year.

Human Resources Management

In FY 2009, OPM will pursue policy initiatives that continue to reform human resources management in Federal agencies. We will work with the Department of Defense to ensure the reforms underway link pay to performance in a fair and consistent manner. At the same time, OPM will work with other agencies engaged in implementing Alternative Personnel Systems to assess the lessons learned from various modernization efforts. Mr. Chairman, in the last half-century, the Federal workforce has changed significantly, and the old personnel system has not kept pace.

The FY 2009 budget will allow OPM to maintain the competitiveness of Federal employee compensation and benefits by exploring ways to refine market adjustments to Federal pay, and providing Federal employees with opportunities, benefits, and service delivery that compare favorably with other employers. For instance, OPM will continue to develop new workforce recruitment strategies and tools, and further improve the hiring process by developing a life-cycle reform model for agencies to adopt to streamline the current recruitment process. And last but not least, OPM will spend \$200,000 to continue to support the Nation's returning Veterans by providing assistance in finding job opportunities with the Federal Government.

Implementing Human Capital Standards for Success

OPM will use requested funds to engage Federal agencies in implementing the Human Capital Assessment and Accountability Framework, and other best practices in human capital management, in keeping with the Merit System Principles, veterans' preference, and other standards. At the beginning of FY 2008, 17 of the 26 agencies reporting under the President's Management Agenda Scorecard have met these standards, up from 11 in 2006, eight in 2005, and zero in 2003. As a result, more than 99 percent of the Federal civilian workforce is employed by agencies that have made significant progress toward meeting these standards.

Through its Compliance Program, OPM will continue to evaluate, review, and ensure agencies comply with Merit System Principles and veterans' preference, and to ensure whistleblower protection and other rights and privileges are honored and protected. OPM will strengthen this program through a human capital accountability system that holds agencies accountable for adhering to these principles, laws, and rules, as well as the human capital best practices referenced above.

Human Resources Line of Business

In 2009, OPM will continue to be a leader in the President's Management Initiative for Expanded Electronic Government and has included \$7,202,000 in its request for this purpose. The requested resources will support the Human Resources Line of Business (HR LOB) and Enterprise Human Resources Integration (EHRI). HR LOB will continue to identify and document common functional, technical, and data requirements consistent with Federal human resources policies and will work toward the establishment of Federal and private sector Shared Service Centers to meet these requirements. During 2009, the EHRI project will continue to modernize how the Federal Government maintains, stores, protects, and transmits information on human resources transactions.

Security-Related Activities

The FY 2009 request includes funding for a number of important security-related activities. OPM will implement Homeland Security Presidential Directive 12 (HSPD-12), Policy for a Common Identification Standard for Federal Employees and Contractors, which was signed by the President on August 27, 2004. This mandates the circulation of a Federal standard for a secure and reliable form of identification for Federal employees and contractors. HSPD-12 requirements will enhance OPM's strategic goal of improving security and emergency planning actions throughout the agency.

Revolving Fund

OPM also provides a variety of ongoing services that are financed by other agencies through our revolving fund. These services include providing one-stop access to high-quality e-Training products and services; offering professional development and continuous learning for Federal managers and executives; providing employment information and assessment services; automating other agencies' staffing systems; providing examining services when requested by an agency; providing technical assistance and consulting services on all facets of Human Resources management; testing potential military personnel for the Department of Defense where it is cost-effective for OPM to do so; managing the selection, coordination, and development of Presidential Management Fellows; and conducting investigations for all employees to determine whether they are suitable for employment, as well as more in-depth investigations for employees whose positions require security clearances. For those ongoing revolving fund responsibilities, the FY 2009 budget includes an estimated \$1 billion in obligations and 3,131 FTE to be financed through payments for OPM's services by other agencies.

Mandatory Payment Accounts

The OPM budget request also includes mandatory appropriations to fund the Government contributions to the health benefits and life insurance programs for Federal annuitants.

For the approximately 1.9 million annuitants participating in the Federal Employees Health Benefits Program, we estimate that about \$9.6 billion will be needed to pay the Government's share of the cost of coverage. That represents an increase of \$769 million over FY 2008. We estimate that, for the 500,000 annuitants under age 65 who elect post-employment life insurance coverage, an appropriation of \$46 million will be required.

Also, as mandated by the financing system established in 1969 by Public Law 91-93, liabilities resulting from changes (principally pay raises) since that year that affect retirement benefits must be amortized over a 30-year period. For that purpose, we are requesting a "such sums as may be necessary" payment to the Civil Service Retirement and Disability Fund in the amount of \$10.2 billion dollars. This represents an increase of \$100 million to cover the service cost of the Civil Service Retirement System, which is not funded by and for active employees.

Thank you again for the opportunity to appear before you today to discuss OPM's budget request. I would be pleased to answer any questions you may have.

RETIREEZ PROGRAM

Mr. SERRANO. Let's talk about the RetireEZ program. You unveiled it on February 25, 2008. How many retirements have been processed by the new system since it began operating and what is your assessment of how well the initial rollout of the system is going?

Ms. SPRINGER. We believe it is going well. Since our rollout, we have had from the group that is eligible, wave 1, which is 26,000 employees, we have received 37 requests for retirement. Of those 37, there are three that are still pending, so that means 34 have actually been processed. 15 of those had functionality that was not yet programmed into the system, and as you know, we are doing a phased rollout of functionality that means the calculations. So 19 could be calculated using the system.

Of those 19, 13 matched completely. The other six had some element that did not match completely. So we have essentially a 70 percent batting average on the new system for the retirements we have gotten so far. And that is why—

Mr. SERRANO. What was the percentage?

Ms. SPRINGER. About 70 percent. So that is why we are continuing to calculate in parallel using our old process as well as our new process. Because we look at every case to make sure that it matches up.

If we find that it does not, that tells us something that we need to fine tune. And what we are talking about are fine tunings for those that did not match 100 percent. 70 percent is about what we would have expected going out. But again, everybody gets that parallel safeguard quality control of the old system check.

Now, even the old system goes faster, and this is important to note. Every single one of these people have gotten their checks the first month in the full amount. No interim checks for any of those 34. And the reason is that even for the ones that are outside the system, we are now using automated data, not the paper data we had before. All of that paper data has been converted as part of this project.

So all the data is there, the errors have been fixed and the holes have been plugged and that means, even in the old process, we can get this done faster because of this project at the same time that we are fine-tuning the other 30 percent.

Mr. SERRANO. You said the batting average was 70 percent, which early in the season and people do hit 700 in the first few games easily. Now their batting average usually goes down to 300. Do you expect your 700 to go up?

Ms. SPRINGER. Yes.

Mr. SERRANO. Okay. So unlike the Yankees, yours will go up?

Ms. SPRINGER. Well, we want to win the World Series. Let's put it that way.

Mr. SERRANO. Some reporter who just walked in would not think we were talking about something this serious.

LEGACY SYSTEM

OPM issued a formal response on Monday to the Government Accountability Office review of retirement systems modernization.

The report notes that OPM has continued to use legacy systems to check retirement applications for accuracy and that the new system matched the legacy system in the majority of cases, was your wording.

Could you describe the cases in which the new system and the legacy system did not match? How many such cases have there been and what actions is OPM taking to address them? Are you incurring any additional costs by processing retirements using both the new and legacy systems? And how long do you expect—the last part of this question is how long do you expect to be using both?

Ms. SPRINGER. All good questions. We are not incurring any additional costs because, in effect, this becomes part of our testing protocol which is ongoing. All of the functions in wave 1 apply to waves 2, 3, 4 and beyond. So if we find something that does not match—and again, the percentage and the numbers, as I said, was a 70 percent match, 13 out of 19 cases, the others were ones that had functionality that hadn't been programmed yet. So the example numbers I had in the report were 13 out of the 19. And so the people whose cases are running the parallel process, again, this is a very small subset of what we do. We process well over 100,000 cases a year, so for this small sample to run in parallel is not incurring any extra cost to OPM. For those six cases that did not match precisely, we go back to our programmers on this team and say this is something that needs some fine-tuning. Build that into our test plans and, in effect, it becomes real live testing.

Mr. SERRANO. Let me ask you a question on the issue of diversity in the workforce. And on the prior questions I would hope that you keep the committee informed as we go along as you go along as to how we are doing.

Ms. SPRINGER. Absolutely.

Mr. SERRANO. I want your batting average to be 1,000 for the whole season.

Ms. SPRINGER. Yes.

Mr. SERRANO. If you could keep us informed, that would be very helpful to us.

Ms. SPRINGER. Yes, we will.

DIVERSITY IN THE WORKFORCE

Mr. SERRANO. The most recent annual Federal equal opportunity recruitment program report to Congress notes that minorities continue to make gains in representation within the Federal workforce. However, the report also notes that women in general and Hispanics lag in representation within the Federal workforce as compared to the civilian labor workforce.

How does OPM assess agency efforts at achieving a diverse workforce and how does OPM assist agencies to make these efforts successful? Why do women, in your opinion, and Hispanics continue to lag behind other groups in their representation within the Federal workforce?

Ms. SPRINGER. The progress, as you note, has been very modest. It is going the right direction, but it is going very slowly, and in particular, in the areas that you mentioned.

And how does OPM deal with this? There is a monitoring and oversight part that we do and then there is a guidance component.

The monitoring is related to our human capital assessment program that this budget funds and that requires agencies to report to us on their efforts with respect to diversity, with respect to hiring, training, development, professional development opportunities within the agency, because, as the report notes, this is an issue at senior level as well as through the General Schedule ranks, and in some cases more so at senior level. So there is an oversight piece of this. And those scores become part of what is reported on in the President's Management Agenda, in addition to our own human capital assessment that OPM does for each agency.

But more specific than just oversight and reporting is what guidance that we provide and how is OPM engaged with agencies and the broader community. There are a number of ways we do this. There are standards that we publish. You could see them at OPM.gov. We work with the chief human capital officers as well as within OPM itself to direct agencies on how to achieve greater diversity. This is one of the things we do regularly and keep up to date.

We also are participating with the broader community, including individual nongovernment groups, running training sessions, and running things with respect to our candidate development program to try to get people to apply for opportunities to move into senior ranks. So, we believe that there are a number of fronts on which we are acting, both from the guidance and promotion standpoint as well as in oversight and ultimately reporting. But it continues to be an area where we have not achieved the level that we should achieve and want to achieve, and even though the progress is going in the right direction, it has been very small.

OPM PROGRAMS TO ENCOURAGE DIVERSITY

Mr. SERRANO. Let me just do a—before I turn to Mr. Regula, a follow-up on this. Your 2007 annual employee survey asked employees to respond to the statement that: OPM's policies and programs promote diversity in the workplace. That was the statement. Over 46 percent of the employees selected "neither agree nor disagree," "disagree," "strongly disagree" or "don't know." what programs are established or planned at OPM to encourage the recruitment and retention of a diverse workforce and how will OPM follow up on these survey results to ensure that employees are aware of the agency's diversity initiatives and can actively participate in fostering their success?

Ms. SPRINGER. Let me just add a little window into that. I want to make it a little more granular. The numbers that disagreed or strongly disagreed were less than 10 percent there, and I don't have a basis of comparison from the previous to see if these have improved or not. But clearly, you know—

Mr. SERRANO. Well, it was "neither agree nor disagree." 24.9 percent.

Ms. SPRINGER. Yes.

Mr. SERRANO. "disagree," 4.7 percent. "strongly disagree" 4.7, "Don't know," 11.9.

Ms. SPRINGER. That is right. And each of those has significance. So what do we do? We have I would say just about every month some element of awareness and championing of diversity at OPM,

combined with people from outside the organization as well as inside. We have guest speakers, and promotion of people within the agency, and what they do, particularly with respect to their heritage.

Also, if you look in important leadership positions at OPM we have a diverse group. I won't say as diverse as some people would like it to be, but I know in hires that I have made that I have been mindful.

But again, if half of our workforce is saying that either they are not sure or they disagree with that statement, then that is the value of the survey it helps us to say that we need to do more than what we are doing.

Mr. SERRANO. Thank you so much. Mr. Regula.

RETIREMENT PLAN INVESTING

Mr. REGULA. Thank you, Mr. Chairman. You manage the Federal retirement system. I assume that is every dimension. Do you do the investment policies or do you hire professionals to invest?

Ms. SPRINGER. The Treasury Department handles the investment. That's the one thing we don't do.

Mr. REGULA. So that the money that is set aside for these retirements like in the 401(k)s, Treasury does all of that investing?

Ms. SPRINGER. The 401(k) is the Thrift Savings Plan and so that is separate. And that is essentially self-directed. We choose, each of us, that is, in the Thrift Savings Plan, choose our own options. OPM has nothing do with the Thrift Savings Plan. But with respect to CSRS and FERS and all the others, Treasury handles the investment.

AGENCY RECRUITMENT

Mr. REGULA. Do you recruit for agencies or do they do their own recruiting of new people?

Ms. SPRINGER. Agencies do their own recruiting. It is not centralized. However there are times that we will assist them. For example, the Department of Homeland Security at one point had a very large need for people in a short time, and we actually helped them with their recruiting.

There are various things we do along the way, and we certainly operate the USAJobs Web site. That is an OPM responsibility. But the actual hiring and interviewing is decentralized.

Mr. REGULA. Is that all done here or do you have satellite offices around the country?

Ms. SPRINGER. That hiring is done throughout the country.

Mr. REGULA. But they are an extension of your agency?

Ms. SPRINGER. To the extent that OPM is involved, yes.

Mr. REGULA. Yes, that is what I mean. I noted that you had a career fair in Columbus. I think it is over, perhaps.

Ms. SPRINGER. I think it is going on today, right now.

Mr. REGULA. Is this a first or have you done several of these?

Ms. SPRINGER. We have been at Ohio State before and there are several locations, universities across the country, that we have developed a relationship with. And so we have found that it is good to continue a presence as opposed to hopping around from place to place. At the same time, though, we do have an annual Web cast

that is interactive that we run from here with the Partnership for Public Service that covers thousands, essentially every college or university is able to join that Web cast. And so this is just one way. The Ohio State one is a continuing relationship.

Mr. REGULA. In career fairs, you would make available information about the huge variety of careers that are potentially in the Federal Government; is that correct?

Ms. SPRINGER. Yes, yes, and this is not just open. We have various agencies on campus. Agriculture, NASA, VA, Homeland Security, we expect that this particular one, about a thousand students will come.

Mr. REGULA. So the agencies put some of their people in the career fair, you manage them, but they have their people there?

Ms. SPRINGER. Yes. There are about 50 agencies overall that will have a presence.

TRAINING PROGRAMS

Mr. REGULA. Do you have any programs to train or educate people coming into the workforce?

Ms. SPRINGER. We do, and they are at various levels. Some are agency-specific. USDA for example has a whole host of programs, and there are other agency programs, too. But we have some programs that OPM runs. We have various e-learning programs, distance learning so you don't actually have to be in a classroom.

And at the supervisory levels, we have actually bricks-and-mortar management development schools on the east and west coasts, and at the highest level, we run the Federal Executive Institute for the Senior Executive Service.

Mr. REGULA. Well, with a change in administration, many jobs change that are of a political nature but you don't get involved in that do you?

Ms. SPRINGER. No, I don't.

Mr. REGULA. Just the employees who are career employees, if you will?

Ms. SPRINGER. Yes, which is the vast majority.

REHIRING RETIREES

Mr. REGULA. I noticed you have some authority to rehire retired people who can take their pension and then come back to the agency, and in effect, they are drawing from two different sources. Is that commonplace?

Ms. SPRINGER. It is not commonplace today. What we have today is the ability to grant a waiver to allow, under very specific limited circumstances, a retired Federal employee to come back and be able to get their pension, continue to get their pension and be paid for the work they are doing today.

But that is very limited. What most organizations have is the ability to bring a retiree back and let them get paid for their current work. Under our proposal, if they are qualified to do that, then they would be entitled to be paid and not have to have an offset with their pension. We can't do that generally. We can't just do that because we have openings or we want someone to come back and train new employees. We can't do that at Federal agencies today.

Mr. REGULA. As an agency you can't.

Ms. SPRINGER. No agency can unless they have a waiver authority that Congress has granted specifically for them. And a couple of agencies have that. NRC has that for example, but most agencies don't. They have to come to OPM for specific permission, but it is only in very narrow circumstances.

What we have proposed to Congress, and it came last March, March a year ago, still working its way through, is a part-time availability to bring back retirees from the Federal Government who know these jobs better than anybody. This would still be in very limited circumstances, and I have offered some additional limitations to try and get this through, such as a cap on the number at any one agency, for example, or a sunset.

But I hope we can get this done because we are in the position today where we can hire a retiree from General Motors who is getting their pension from General Motors, and we will pay them for their full salary for coming to work at the agency. They don't know the agency. The person that retired from that agency 5 years ago that wants to come back and help us that knows the job won't get paid the same way. And I think that is unfair. This bill would fix that.

ELECTRONIC RECRUITMENT TOOLS

Mr. REGULA. Have you moved into using electronic devices to assist you in the recruiting and providing of qualified people for the agencies?

Ms. SPRINGER. We are using it and we are increasingly using it. The biggest thing is probably the USAJobs capability that lets people apply online. It coaches them in their resume but lets them start the whole process electronically. We are doing things to make ourselves more visible on search engines like Google and others so if someone is looking for a job, a student or whatever, we will show up at a higher priority. We did not used to do that. There are other electronic tools along the way that will, I think, be employed over the coming year.

Mr. REGULA. Thank you, Mr. Chairman.

Mr. SERRANO. Thank you. Senor Kirk.

Mr. KIRK. Mucho gusto, gracias.

Mr. SERRANO. He probably just broke some Federal work force rule; right?

Mr. KIRK. Habla Americano, no Espanol.

ROLLOUT OF THE ELECTRONIC RETIREMENT SYSTEM

We have looked at the deployment of electronic retirement system as you described, and I would first like to ask for the 26,000 employees that you have, those are GSA employees; right?

Ms. SPRINGER. They are partially GSA. Also OPM, Railroad Retirement Board, National Archives, but GSA manages the payroll for that group. So, mostly GSA, but some others.

Mr. KIRK. I am particularly happy that the rollout is OPM.

Ms. SPRINGER. Well, we are too.

Mr. KIRK. So that it is OPM first working out the kinks in the system. Can you briefly describe for us the rollout of the rest of the

system, the other bureaucracies that will be encompassed in the schedule.

Ms. SPRINGER. Yes. There are four other waves. Of those waves, three of the four are related to payroll systems, payroll providers. So where GSA was the first group, another one would be the defense group, with DFAS, their payroll provider. The National Business Center, Interior Department, has a group. That will be the third one. Then there is one run out of the Department of Agriculture National Finance Center.

The fourth will be the Postal Service, and actually that is the next one that is to come. Postal Service by itself is about 700,000 people, so that will be a very large group compared to what we have done.

Mr. KIRK. When we talk about of the 37, we are talking about a very small number right now. Fifteen the functionality did not fit yet. Is there a set of functions that you saw from the 15 that were not foreseen that suddenly were foreseen? Why did those 15 not fit?

Ms. SPRINGER. Good question. And in the GAO report, our report back to GAO, I should say, and to Members of Congress just issued on Monday, if you look at appendix 2, what you would see, there is a list of 150 functions. And these 150 comprise the inventory of all the calculations that RetireEZ will have to do once everyone is in.

Mr. KIRK. This is what the legacy system told you is everything that we do?

Ms. SPRINGER. Yes, and our experts that do these calculations. So they are things that are rated on two bases. Would they apply to wave 1 and how frequently are they encountered? Of the 150, 100 roughly would apply to wave 1. Some are related to congressional plans, by the way, and you are in one of those other waves. So they would not apply.

Of the hundred, we said we can't have all hundred on day one. What are the most frequently encountered functions? And so on that chart, you see that they are rated frequent, occasional and infrequent. We selected the 15 that we thought were going to be the most frequently encountered. But there are some others on there that can and do show up.

Mr. KIRK. So you actually planned for a lack of full functionality in the rollout?

Ms. SPRINGER. That is right. And this is one of the comments from GAO. You don't want to put something out there if it has not been fully tested.

Mr. KIRK. When do you think you will have all 150?

Ms. SPRINGER. The first step is to get the rest of the wave 1 functions, the rest of the 100. We are planning to have those around late May, maybe early June.

Mr. KIRK. Is this is an imminent issue that you are involved with?

Ms. SPRINGER. Yes, absolutely. And it should be viewed as a continued rollout. We will, every few months, add something new. The next thing would be the balance of the hundred, the wave 1 functionality. That is what we are shooting for. Is it possible it

might be just 90 out of a hundred, but we are shooting for the balance of that.

Mr. KIRK. It is very good that, first of all, we have this applied to OPM, and second, it is good is that we have this apply to Congress and we are experiencing what our Federal workers are. Which wave do you expect Congress to be included?

Ms. SPRINGER. Congress is in a wave that is toward the end of this calendar year.

Mr. KIRK. So would you be able to set up so that Members could walk through them and see sort of how the system works and how the legacy system works? Because what I want to do is get the awareness of what our Federal employees will see and go through and the best way to do that is to have Members of Congress look at their own.

Ms. SPRINGER. Yes, the answer is yes, we can do that. What we are doing first, and this has actually been scheduled for, I believe, Monday, this Monday, is a demonstration of the functionality, not with specific Members of Congress as test cases, but just how it actually will work. And it is important to note that this tool will become available to every one of you. Right now it is available only to the benefit officers at the wave 1 agencies.

But ultimately, as we get more data cleaned for the employees—we don't want people going on and finding that their data has problems—you will see what you will all be able to do with this new system, in modeling and in estimating.

Mr. KIRK. So you think that an individual member would be able to see their own records sort of in the fall?

Ms. SPRINGER. I am going to say later this year. That is our plan.

Mr. KIRK. I want to be able to see what my military retirees and my postal workers are looking at because of how this program is rolling out. I am very aware of this system. But for all of my colleagues, I want to get them sort of up to speed.

The last thing, when does the burden of proof shift from the legacy system calculating this to the automated system calculating it? When do you see that the legacy system then becomes advisory only? When does that happen?

Ms. SPRINGER. Let me say when it won't happen and then when I think it will happen. It won't happen until we have all of our waves moved over, and that is scheduled for spring of next year. So I think it is some time after that. It most likely would be some time in 2010. However, in other words what I am saying is we won't shut it off. But it isn't as if it is actually a system, it is people.

Mr. KIRK. Right. Last thing. I am trying to think critical mass for the experience of Federal workers. When do you think instead of 37 we have 100,000 who have gone through the electronic? When do we hit that number, do you think?

Ms. SPRINGER. That is roughly the amount that we do in a year, in a full year. But putting in the population of 700,000 of Postal employees is going to mean that we get more like 2,000 requests a month as opposed to the 30 or so that we get out of wave 1. So that is going to accelerate pretty quickly in the summer. And so I think we will have achieved a volume that will be very informative to us in the summer.

Mr. KIRK. Thank you, Mr. Chairman.

Mr. SERRANO. Senor Bonner.

Mr. BONNER. Thank you, Mr. Chairman. I am bilingual as well, but I speak South Alabamian, you might need a translator.

Mr. SERRANO. I am from the south Bronx, I understand that well.

HIRING ADMINISTRATIVE LAW JUDGES

Mr. BONNER. Madam Director, I appreciated hearing you tell the Chairman that you were looking forward to winning the World Series and I fully acknowledge that my question may be parochial so I don't expect you to win it necessarily with the ability to answer these questions at this moment. But if you could work with your staff to get answers back we would appreciate it.

As you may be aware the House Ways and Means Committee and the Social Security Administration were very critical of OPM's efforts to facilitate the hiring of new administrative law judges, while more than 700,000 people awaited Social Security hearings last year. I understand that OPM is responsible for developing qualifications standards, conducting examinations and developing a register of candidates from which agencies can hire. And I know that litigation and the development of a new examination of candidates has delayed hiring significantly.

Unfortunately, that does not change the fact that in my home district in Mobile, Alabama in 1996 we had a backlog of more than 6,000 cases. Today that number has grown to almost 8,000 cases. Of the 12 ALJ positions in the Mobile office, only nine are filled. And with the new hirings announced by the Social Security Administration in February of 2008, some of these positions may be filled this month. But even those ALJs would not be handling a full docket until the end of the year, some 9 months from now.

Last spring, I believe, OPM opened for the first time since 1999 a registry for applicants. For 8 years, some of my most qualified constituents waited to apply for these ALJ positions. Unfortunately, the registry was shut down within a few hours after it opened. Of the 1,250 applicants reviewed, I am told that roughly 600 were ranked and available for hiring in October of 2007. Of those 600, the Social Security Administration has announced that it will hire 175 new ALJs. And I have also been told that this was not a one-time opportunity and that the registry was the first in a series of vacancy announcements that will be posted.

So here is the question. When do you anticipate that the 600 candidates will be exhausted and when will the next vacancy posting occur?

Ms. SPRINGER. Okay. That is a good recap, I think, of how we have gotten to where we are. There was lots of litigation, most of it predated me, but partly as a result of the oversight of the Congress, we really did get into high gear last fall, and very quickly did open up and reestablish the register, if you will. And I can't speak to all the reasons why Social Security disability claims backlogs have increased, and it is certainly not just a matter of ALJs but at this point as you said correctly, the register was refilled.

The short period of time for applying was part of the fact that, for expediency, because Social Security did have an immediate

need, we limited to the 1,200 plus amount the application pool from which we would interview, review, and rate and score and ultimately establish the new register. If we have kept it open longer, it would have delayed our ability to get people on the register and available for Social Security and others.

So at this point, as you said, Social Security has hired off of that register. And we are in the process right now of polling Social Security and others as to what their need is going to be going forward. If the balance of the register is not going to be sufficient based on what they tell us, we will get ready to do another replenishing, if you will, and go through that process again.

Obviously, we are in a position to do that quickly because we don't have to go back and reestablish the credentials and the priorities and the questions. It is there. It is current as of last fall. And so it is just a matter of executing.

So we will be able to do that, do that quickly, and it is a function of what our customers tell us they are going to need.

Mr. BONNER. I think a follow-up would be that given that there was an announcement and it was closed a few hours after it opened, how can OPM assure us that the next posting will be open for a reasonable period of time in order to allow the receipt of some of the most qualified applicants. It is one thing, in my view, if you get 600 people in and say that is what we need to start the process, it is another thing to know whether those 600 are the most qualified applicants.

Ms. SPRINGER. Of course, if we did not think they were qualified, the 1,200 wouldn't get through the process. So we believe that the ones that were added were fully qualified.

But I think there are two things that are going to make sure that people who want to apply get into it. One is that this has gotten so much publicity. We don't have years and years that have gone by where it has been dormant and it has been off the radar screen. Now it is very much on the radar screen, and I think there are some things that we learned from last fall that will allow us to be very visible when that opens up again. I don't expect same problems.

Mr. BONNER. Would some of those things that you learned allow you to perhaps prepare for the next round, learn from some of the things that have happened in last time? And specifically, is OPM considering announcing that the current list of candidates would sunset in X number of years and do a total redo of the list or just periodically top off the list with new candidates? And if you were to do a redo, how often would that be? Every 5 years? Every 10 years?

Ms. SPRINGER. I would like to get back to you, Congressman, I don't have that answer with me right offhand, if I may.

[CLERK'S NOTE: OPM provided the following response:]

OPM will reopen the ALJ examination to new applicants as the need arises. As part of its determination, OPM monitors the size of the current register as it responds to agency requests for new ALJs and regularly requests that agencies with ALJs projected how many ALJ hires they are likely to make over the next few years. In addition, it should be noted that the current examination can be opened for 10-point preference eligibles under 5 CFR 332.311. Those 10-point preference eligible veterans who successfully complete the examination are added to the register even while the examination is closed to other candidates.

Mr. BONNER. Two more quick points, one more quick point. I am hopeful that OPM and Social Security Administration have established a better working relationship as a result of this and that at some point in the near future, we could see as you have indicated in your testimony that we will be getting things done.

Ms. SPRINGER. Yes, I can assure you that we do have a better relationship. We have people that talk on a weekly basis. And as I say, we are proactively reaching out to them as we do our other customers to know what their needs are in advance as it relates to the ALJ piece of their overall process so that we can be more proactive.

Mr. BONNER. Thank you. Thank you, Mr. Chairman.

Mr. SERRANO. Mr. Ruppertsberger. And no baseball jokes.

Mr. RUPPERSBERGER. No baseball jokes. This is my 5 minutes and since you were strict—

Mr. SERRANO. No, no, I wasn't strict. He went over.

Mr. RUPPERSBERGER. I would hold back for the second one if you would like.

Mr. SERRANO. Any comments I would make about the Orioles would never go off your time.

Mr. RUPPERSBERGER. That is good. We are rebuilding. We are having a psychological issue in Baltimore right now. We cannot all be Yankees fans with all the money in the world. At least we don't have Steinbrenner.

Mr. SERRANO. I did not say a word. By the way, I got your earmark request.

Mr. RUPPERSBERGER. Thank you very much. You are a really good chairman. I appreciate it. You have to have a sense of humor sometime.

Ms. SPRINGER. I am just hoping that the Phillies get to the World Series this year.

Mr. RUPPERSBERGER. Does Philadelphia have a baseball team?

Ms. SPRINGER. This year we do.

Mr. RUPPERSBERGER. National League though; right?

Ms. SPRINGER. Right.

SECURITY CLEARANCES

Mr. RUPPERSBERGER. I want to get into the issue of security clearances. I know it is a major issue. I happen to be on the Intelligence Committee and I chair the Technical Tactical Subcommittee that oversees NSA, and the overhead architecture, so I deal a lot with the clearance issue. It is my understanding that OPM does about 90 percent of the clearances.

Ms. SPRINGER. Yes.

Mr. RUPPERSBERGER. And that anything above top secret goes to the intelligence agencies. Do you agree with that?

Ms. SPRINGER. That is essentially right.

Mr. RUPPERSBERGER. Do you agree with that process?

Ms. SPRINGER. Yes, I do.

Mr. RUPPERSBERGER. Good, so do I. And the reason I say that from the Intelligence Community and what is really at stake with respect to penetration from China, Russia, Al Qaeda whatever, it is important that that clearance I think is handled within the intel agencies.

On the other hand, when you look at the whole clearance process, I think it is a positive move trying to get reciprocity within and among clearances. If you have 25,000 government workers every year that move from one agency to another and yet their clearances don't come to where they need to be, that seems to me to be really not a good system at all. Do you agree?

Ms. SPRINGER. Absolutely. Absolutely.

Mr. RUPPERSBERGER. Are you supposed to come out with a report April 30?

Ms. SPRINGER. Yes.

Mr. RUPPERSBERGER. Where are you now, can you give me a heads-up?

Ms. SPRINGER. Yes, there are four of us that are champions of that effort. One of them is director McConnell. We both have significant responsibilities in this area.

Mr. RUPPERSBERGER. McConnell is DNI, Director of National Intelligence.

Ms. SPRINGER. Yes. And we have DOD and OMB as well. What we are doing there is looking at not just adding more people or automating certain pieces of what was previously a manual process, because those are things that OPM already is doing and can do. That is how we have gotten the backlog down and made things faster, but what we are looking at in this group under the President's direction is a whole new way of doing this balance between risk and technology, and reciprocity and the governance over this. Are there too many steps? Who sets the standards? If we have separate standards for seeing if someone is suitable for a job versus whether they are executable for a security clearance, are we asking the same types of questions twice?

Are we using the best automation possible? Are there things going on in the private sector, in financial services or other areas that maybe are doing things in the way of clearance technology that we need to use? That report on the 30th will identify areas that we need to look for and things that we need to do that will redo the whole process, and modernize the whole thing.

CLEARANCE PROCESS

Mr. RUPPERSBERGER. How about the issue of implementation? We have so many studies on Capitol Hill and we don't get to the implementation. This is very important for the national security. I would suggest to you that 50 percent of the clearances we have we don't need. If you really looked at clearances that are necessary are the ones that involve our national security, things that are very, very classified and confidential.

There are many, many workers whether it is NSA, CIA, Department of Energy, wherever they may be that probably don't need the clearances that they are getting right now, now because they are really not into the area where you need to have that. And another thing, and I would suggest, and I ask if you are doing this now. That we look at the whole clearance process and see whether or not we need all the clearances being processed. I don't think there has been a strong study or investigation into that. I know GAO had a hearing about 2 years ago before the Government Reform Committee and they were starting to examine the situation.

But I think they were afraid to take it on, to be honest with you. Have you looked at the whole structure to see whether or not we need the clearances that we have now, which would save a lot of time. Then we could put more effort into the ones that we need.

There is still a big backlog of contractors that costs us money and affects national security. And with NSA and NRO and a lot of these other places that we have to rely on the contractors, and yet we are not getting those cleared as quickly as we need.

Ms. SPRINGER. The answer to your question is yes. That is something that is part of this. Do we need the level—not just the clearance, but which level of clearance is it? How can we look at the standards that go with those different levels to ensure that we are asking and investigating to the extent that we need to but not beyond that. That will help the process go.

The other thing this involves is not just the investigative piece, but the adjudication piece. The adjudication piece today, which is where the agency takes the results of the investigation and makes the decision, that can range anywhere from 5 or 7 days to a year in the amount of time that an agency takes to make that decision.

And so we could use all the technology in the world to get the information, but if it stays there at the agency that person isn't going to get hired or get their clearance. It has to be an end-to-end review, and that is what we are looking at.

CLEARANCE COMPLETION TIMES

Mr. RUPPERSBERGER. Sometimes it seems that we ought to look at where agencies do things right and agencies that are not doing as well as they should. I think the NSA does an excellent job in what they do. They can complete a clearance in 3 months and their investigation process is a lot more thorough because of what is at stake because their clearances are above top secret.

Has your department looked at the NSA how they do it? And have you been able to learn from what they do versus where you are now? The problem is that you have a heck of a lot more volume than they do.

Ms. SPRINGER. I believe we have, because I know we work with all of those agencies not only in this task force, but more broadly. One of the things that I know that we do as well though is we monitor how every agency's doing in all the facets. We know who is doing well within our realm in adjudication. At OPM, for example, on average we get it done in 7 days. So it is a wide range, and with OMB's leadership, all of those agencies are counseled on ways they could get faster. They are making progress, but you know they are not where they need to be.

Mr. RUPPERSBERGER. You have been working on the timeline target of 90 days. Where you are actually as far as your average? I know that is your goal, but I assume you are not quite there yet.

Ms. SPRINGER. We are on average end-to-end, for the Secret clearance, I believe—I will get back to you for sure on this but I believe we are around 112 days.

[CLERK'S NOTE: OPM provided the following response:]

The Intelligence Reform and Terrorism Prevention Act of 2004 requires 80 percent of the background investigations for initial security clearances to be completed within an average of 90 days. OPM is meeting and exceeding these statutory goals. Of

the 586,569 initial clearance investigations OPM received during Fiscal Year 2007, 80 percent were completed in an average of 67 days (92 days for 64,722 Top Secret and 63 days for 404,534 Secret/Confidential).]

POLYGRAPH TESTS

Mr. RUPPERSBERGER. When do you use polygraph?

Ms. SPRINGER. I need to get back to you on that. That is at a level that I don't know.

Mr. RUPPERSBERGER. I have tried because of the committee that I am on, the other committee, the Intelligence Committee, we look at a lot of these issues, and sometimes we track where we have certain individuals whether they are contractors or actual employees. And you have situations with it that polygraph is mandated because of the type of clearance that it is. And you have individuals that would take a polygraph, and they would fail the polygraph on an issue such as relationships with terrorists which is really kind of absurd if you look at somebody's background.

And then the polygraph examiner, you fail that polygraph, they say come back in 3 months or 6 months and we will redo it. And that is usually when we get calls to Members of Congress. They are told if they failed they must wait, that is ridiculous, this person should have another polygraph examiner.

My concern there is the issue quality of the people who are giving the polygraphs. And when you have someone whose background is such that the polygraph is the last issue that needs to be done, yet they are put back 6 months later, when, in fact, we have gone this far, we have spent the money that we need to do. We need to have a consistent program and make sure we have a background on the quality of our polygraph examiners.

In the one case, another polygraph examiner came in, they relaxed the person, the person passed. Now that is costing our government a lot of money. And are you evaluating that? Are you looking at that issue? I would like to hear you get back to my staff on the issue of polygraphs and how you handle that, how you make sure that we have consistency with polygraphs, and when somebody fails it and they have gone through all the background checks that we do not just put them in the queue for 6 months later.

Ms. SPRINGER. Let me get back to you. That is out of my range. I am not even sure that we use polygraphs or to what extent. Let me get back to you.

[CLERK'S NOTE: OPM provided the following response:]

OPM does not conduct polygraph examinations as part of its personnel security investigations. Only an executive branch agency that has a highly sensitive intelligence or counterintelligence mission directly affecting the national security may use the polygraph for employment screening and personnel investigation of applicants and appointees. However, OPM approves and annually renews the use of the polygraph by these agencies under the authority of Executive Orders 10450 and 10577, as amended. OPM follows the standards it formerly prescribed in Federal Personnel Manual Chapter 736, section 2-6, title *Use of the Polygraph in Personnel Investigation*. Renewal requires the requesting agency to recertify that it continues to meet OPM's standards for use of the polygraph in employment screening and personnel investigations.

In addition to meeting OPM's standards, agencies seeking renewal must meet the uniform personnel security community standards agreed to by the agencies in the U.S. Security Policy Board's Polygraph Memorandum of Agreement.

Finally, the Department of Defense's Polygraph Institute (DoDPI), the executive agency for polygraph screening, conducts quality assurance reviews of agencies'

polygraph programs pursuant to the procedures in the *Federal Psychophysiological Detection of Deception Examiner's Handbook*. The reviews are conducted at least every two years, and the results are provided to OPM and the respective agency's security office.

Mr. RUPPERSBERGER. Probably more polygraphs are used in the Intel community.

Ms. SPRINGER. I don't think we do. I think that is strictly in the Intel. Let me get back to you.

Mr. RUPPERSBERGER. I think it is. You don't have to get back unless it isn't.

Ms. SPRINGER. Okay.

RECRUITMENT IN THE TERRITORIES

Mr. SERRANO. Thank you. Part of what I have been doing Director Springer, is trying, since I became Chairman of this committee, to make our government aware of something that it seems not to be aware of at times, and that is outside the 50 States, we have territories where American citizens live and work and are covered by Federal laws and by the Constitution, as well as serve in our Armed Forces. So whenever possible, I try to inject the whole issue of how are you working with the territories.

With the issue of recruitment, most agencies tend to recruit within the 50 states. What would it take for us to begin to recruit, something that I would encourage, outside the 50 States and recruit in the territories also? On the issue, for instance, of the lack of sufficient Hispanics in the Federal workforce, there are plenty of territories where you could certainly recruit. I use, as an example, my birthplace of Mayaguez in Puerto Rico. No one knows how this really happened, but a long time ago, NASA went there and recruited some folks. The success they had was such that they have come back and back and back.

On many of these space flights the folks on the ground were folks who were born in Puerto Rico, educated in Puerto Rico, recruited in Puerto Rico, and like any other American citizen, moved to Maryland and to other places and they work at NASA. And for some good reason NASA keeps going back to recruit there.

So can you encourage this governmentwide? This recruitment? And how could we put that in place?

Ms. SPRINGER. You are right. Another agency that had good experience in Puerto Rico very specifically was VA. So how can we tell other agencies about that and promote it? One of the ways is, under an executive order, we have an interagency Hispanic council that meets twice a year at least and there are other interim meetings, and we have asked agencies who do a good job with this to come and tell us what they have done.

I wasn't aware of NASA, so that is one that I will ask to come to the next meeting. But I know that VA, for example, did a very lengthy presentation on their experience. And so we are showcasing those, encouraging agencies to do more of that, and there is someone there from every agency. Maybe the thing to do is to follow up to see if they have actually started to do it.

But I will add NASA to the next meeting also.

Mr. SERRANO. I would like to see something—I don't know how possible it would be—where it is an initiative that we put forth

where the encouragement is more than an encouragement, but a semi-mandate that they include the territories in their recruitment. Keep in mind that we are talking about territories who are governed by these agencies, so to recruit folks to work here with them—and at their local places also—but certainly in the Federal agencies makes a lot of sense.

FUNDING ELECTION OBSERVERS

Let me talk for a second about the voting rights observation. The fiscal year 2009 budget request proposes that the Department of Justice reimburse OPM for direct costs relating to providing trained election observers to monitor elections in areas designated by the U.S. Attorney General. Up to now OPM has received direct appropriations for this activity.

What are the reasons for shifting the direct costs of deploying observers to election sites to DOJ? DOJ is funded under a different appropriations subcommittee. Is OPM confident that DOJ will receive appropriations for this purpose? What will be the impact if funding is not provided to DOJ?

Ms. SPRINGER. The reason that we worked with DOJ and OMB on this change is that DOJ is responsible for determining where and when the observers are needed. Even when we had the funding, DOJ was the one that would tell us that observers are needed in New York or in this State or somewhere else. They would do the estimates, and so it was really out of our hands to know where the need existed and to what extent it would be.

Our role, which we value candidly, is that we train people and make sure that those people are equipped to do that job. But the estimation of the need, and that drives the funding, is really something that we are not in a position to be knowledgeable of. That is a Justice function. So we felt that the budgeting for that was more appropriately placed with the people who have to do the estimate of the need. And that is Justice.

The funding that we retain is just the funding for the training program. And so that is why we have a very small amount in our 2009 appropriation. We are sure that Justice is requesting an appropriate amount, and if we ever felt that there was any jeopardy there, obviously we wouldn't have done it.

Mr. SERRANO. So Justice would always tell you where to send the folks?

Ms. SPRINGER. They tell us where and to what extent.

Mr. SERRANO. These were not decisions that you made?

Ms. SPRINGER. No.

Mr. SERRANO. I am aware that they sent for many years, they may still do, to my congressional district, to the whole county as the result of a race I was involved in for another office in 1985 where they are still looking for some missing voting machines, but that is another issue altogether. I am glad I lost that and I am here.

What changes then? There are some people who have said this could be a bad thing. Why? What changes? What problem could exist? DOJ you say gets part of the funding then. To do what? To do the assessment?

Ms. SPRINGER. DOJ gets the funding to pay the people, to pay the observers.

Mr. SERRANO. Right. So you get the funding to train them?

Ms. SPRINGER. Just to train them.

Mr. SERRANO. Put yourself in the position—and this is a difficult one to put you in—of a good and fair elections advocate. Was it better the way it was before or will it be better now? Does it make a difference?

Ms. SPRINGER. I would say to that person, it is better now, because before DOJ did the estimate, like they do today, that has not changed and they would give us the estimate, but they were never on the hook for the money. So the people who were requesting the budget at OPM were dependent on DOJ and we were not as close to it to be able to say this is really the right amount versus DOJ who is close to the courts. It is their area of expertise, and by including it in their budget they are going to be very attentive to that amount. So I think that it makes sense.

Mr. SERRANO. Okay. That is one we are going to be looking at, because certainly as we get closer to November of this year, everything is up for grabs. And if what we see now is any indication of how tight races can be all over the country, how these races are conducted and who is there to observe become major, major issues. We will be staying close with that.

Ms. SPRINGER. May I add one other thing, Mr. Chairman? If, for some reason, the DOJ estimate understated and it turned out there was a greater need, in the past OPM would have to find that extra money out of our small discretionary budget, a little over 200 million. DOJ has a much bigger budget from which they could go and pull that extra million dollars, \$2 million. So I think that is an extra benefit to it being there. It is a lot harder for us if we would have to be in that position.

Mr. SERRANO. I was ranking member of that committee and I know they have a much bigger budget.

Mr. Regula.

AGENCY RECRUITING NEEDS

Mr. REGULA. Thank you, Mr. Chairman. As I understand it, the agencies give you a heads up as to what their needs are going to be down the road in terms of personnel?

Ms. SPRINGER. We, periodically, for certain professions, work with them on their gap analysis, particularly for IT, acquisition, financial and human resource positions.

Mr. REGULA. So you could help to recruit for them to meet their needs?

Ms. SPRINGER. We work with them. We work with them in identifying what their need is and working with the different councils to help go out, sometimes run workshops or job fairs or things like that to help meet those needs.

STUDENT RECRUITMENT

Mr. REGULA. Do you get information out to colleges, universities. They have personnel people who counsel students graduating, et cetera, and for that matter, any new students as to what potentials

exist? Do you give them information they can have so that they can better advise students about the potential of Federal employment?

Ms. SPRINGER. We do. And one thing that we are doing that we just started last year and we will be doing it again this year, is to actually create a Web-based set of information about those professions, about how to find Federal jobs. All of these things are almost like a how-to guide. Then we do the Web cast available to thousands and thousands, and we invite all the job counselors at the schools, to get on. Then we archive—

Mr. REGULA. They could watch it to get that information in the college library, could they not?

Ms. SPRINGER. This way we know that it is up to date. So it is archived on the OPM Web site. Even if they missed that Web cast, they can come back to that again and again and again and be refreshed on how to find it.

Mr. REGULA. So these students and the colleges have an opportunity if they take advantage of to determine what is going to be potentially available for them?

Ms. SPRINGER. Yes, they do. And we think that is the most cost efficient way to do it using the technology on the Web.

Mr. REGULA. Your job fairs are part of that too.

Ms. SPRINGER. They are part of that. Those are actually on site, bricks-and-mortar type visits. But you can't go to 8,000 colleges and universities, so that is why we do the broad approach as well.

Mr. REGULA. I know one out of the 8,000 you might want to get to.

Mr. SERRANO. You are not going to be a university President when you leave here are you?

Mr. REGULA. Not yet. No, no, no.

ATTRACTING AND RETAINING STAFF

Congress has provided many new personnel authorities to give agencies the flexibility to attract and retain staff. Bonuses, annual leave bonuses, reimbursing students.

There are a lot of tools available to agencies to keep their particularly qualified personnel. Do you advise them of what they potentially can do to keep personnel?

Ms. SPRINGER. We do. We do it several ways. And one of the things that we have done is for different types of people at different stages of their career, at different points in their life, different types of jobs, we actually put together a matching program between those criteria and the flexibilities that Congress has given us and which ones we think best serve those people at those points in their career. We constantly reiterate that to help the hiring officers and the chief human capital officers to understand it and use them more, and we track how they use it.

You know, I don't mean to be flip here, but you can lead the horse to water but you can only do so much in making it drink. So I don't think it is a matter of getting more flexibilities. I think the flexibilities that we have are fine. I think we just need to help agencies to use them more fully.

Mr. REGULA. Are most Federal employees members of a union?

Ms. SPRINGER. I don't have those figures for you.

Mr. SERRANO. The President isn't.

Mr. REGULA. No, he can set his own rules.

Mr. SERRANO. Neither are we.

PERFORMANCE-BASED PAY

Mr. REGULA. The pay for performance personnel systems in Homeland Security and Defense, I understand they have been disputed in court and are very unpopular. What is your experience on pay for performance? I am involved in the education side, and the education unions do not like pay-for-performance systems. What is happening or what is the attitude in government?

Ms. SPRINGER. There are surveys that OPM does every year of areas of government, employees in government agencies that are under a performance-based pay system. We have had ones that date back for several decades that are mature and well run.

What we find in those, and I am saying that that covers, I don't know, well over a 100,000 people, we find that somewhere around 70 or so percent would not want to go back to a system that does not give them the opportunity to be rewarded more fully for excellence. There are always going to be some people who are going to make less, get less than they would have in a fixed schedule where everyone gets exactly the same. But the vast majority would not go back.

Now, the DHS elected, because of all their other organizational issues of a new agency coming together, to not go very far and to focus just strictly on the performance element and to not actually link pay. That was their choice. DOD, on the other hand, with all of its established training capabilities elected to go to the point where they actually brought people under a performance-based pay system.

We have been in the process of evaluating how well they are doing, and it has been challenged in the courts. There was legislative direction that will limit, particularly in the union population, what DOD will be able to do.

It is too early to tell, in my judgment, how they will rate it. But I can tell you that I think they are doing a good job, and I think that in time, people will get comfortable with this system there. But you are never going to get 100 percent. The systems that have been around for decades and decades said typically there will be close to the 70 percent range of satisfaction with it.

Mr. SERRANO. Thank you. Mr. Bonner?

SOCIAL SECURITY ADMINISTRATION BACKLOG

Mr. BONNER. Thank you, Mr. Chairman. Let me come back to my question and try to get two more quick questions in. Going back to the list of 600 qualified that was comprised last year, did this most recent list get added to the prior list of a decade ago or did this new list of applicants replace the old list?

Ms. SPRINGER. It did replace that old list, because essentially that old list was, if you will, stale.

Mr. BONNER. Okay. And then going—and you mentioned in your testimony or in your answer, I think that there are many reasons for the current backlog, and I certainly accept that. It is true. But the Social Security Administration's Inspector General just last month issued an audit report on ALJ's caseload performance. In a

nutshell, ISSA ALJs processed cases ranging from a low of 40 cases to a high of 805 cases per ALJ in fiscal year 2006.

In my only district in Alabama, we have 55 percent of the ALJs that have fewer than 500 cases. And in my distinguished Chairman's district in the Bronx in the office of the Bronx, 75 percent of ALJs have fewer than 500 cases. And when we talk about ALJs and cases, we are really talking about our citizens who come to us as their ombudsman to try to get the process issue system to work on their behalf.

So what can and should be done about underperforming ALJs in your judgment? And if there are some 501 underperforming ALJs at the Social Security Administration, how would those positions be filled in a timely manner to ensure that the Social Security Administration can effectively work through the case backlog?

Ms. SPRINGER. Ultimately, our role—I can only speak for our role—OPM's role is to make sure that there are enough qualified ALJs available to Social Security. How they are geographically assigned—actually the importance for us in that one is to make sure that we do get people from the different geographic areas because if all the ALJs on our register are in Washington, D.C. but they need someone in San Francisco, we could have 1,000 qualified ALJs, but none where they need them.

So that is one of the things that is important for us to find out from Social Security. What we are doing now is a more refined enlightened approach that says where do you need—not just how many, but where do you need them?

To the extent that the caseload varies, it is up to Social Security to be sure that they have the right number of ALJs in a given location. Our role there is to make sure that we do the register with that foreknowledge of where they are going to need them.

And from the standpoint of the performance or productivity of a government ALJ, we think our qualification standards are rigorous enough that we are weaning out ALJs that don't have the qualifications that would allow them to be productive to the extent Social Security wants. But if Social Security, for whatever reason, thinks that is not there, then they—it is certainly within their power to say this ALJ isn't the one that we want, isn't the right one for us. They don't have a pay-for-performance type system. So you don't have that type of incentive-based approach. But we hope through our screening, we are eliminating ALJs that are not qualified to handle that.

UNDERPERFORMING ALJS

Mr. BONNER. Madam Director, what about ALJs that are simply underperforming? Does Social Security have within their own authority the ability—we have had judges in my district that were hearing five and 10 cases, and then I get calls from constituents that are looking at 2 and 3 years to get an answer. Sometimes they die before the family gets an answer. Does the system allow for underproductive, nonproductive, poorly performing ALJs to be rooted out of the system so that your operation can bring in qualified candidates that will do their job well?

Ms. SPRINGER. Let me get back to you for sure on this because I don't want to be misleading. I think that the agency, whether it

is Social Security or any other, has the capability of taking action with respect to these ALJs, but let me get back to you. At that point, it is out of our hands. All we do is periodically reassess that they are still qualified. But let me get back to you because that is a good question.

[CLERK'S NOTE: OPM provided the following response:]

An agency may remove, suspend, or reduce in level an administrative law judge for good cause established and determined by the Merit Systems Protection Board on the record and after opportunity for a hearing before the Board as prescribed in 5 U.S.C. 7521.

Mr. BONNER. Okay. Thank you. Thank you, Mr. Chairman.

HUMAN CAPITAL REPORT

Mr. SERRANO. Thank you. I have just have one more question on the issue of agency human capital officers. In a July 2007 report by the Partnership for Public Service, Chief Human Capital Officers and other key Federal human resource officials across government gave OPM mixed reviews. While there was acknowledgment that OPM "does many things well," two-thirds of the interviewees reported that OPM does not fully understand or appreciate the needs and resource limitations of agency human capital officers.

There was also concern expressed regarding the need for more consultation and better communication between OPM and agencies. Has OPM responded to this report by addressing the concerns raised by the human resource officials? And what actions has OPM taken to become more responsive?

Ms. SPRINGER. I am aware of that report. And I chair the Chief Human Capital Officers Council. And so the answer is I would not disagree with the areas. I think I would take some exception with the extent to which they think those concerns are prevalent.

However, we have done some things. First of all, I reorganized the Chief Human Capital Officers Council subcommittee structure, and I assigned people at OPM to be linked to and to work with each of those subcommittees. So there is much more collaboration and mutual goal setting. We have just finished setting goals for the council, including the Chief Human Capital Officers who were interviewed for this report, so that their goals and OPM's goals are aligned in their areas of concern.

I have also added deputies, and by the way, about half of the Chief Human Capital Officers are career officials. They are not political appointees. I think all of the deputies—and I established that deputy position—are also career because I want to make sure there is continuity on these people issues from year to year to year. This is not something that should have to restart when a new administration comes.

So I think we are better linked; people are assigned; there is mutual goal setting and much more contact. I think if that survey were done in 2008, those scores would rise. I am not going to say they are 100 percent batting average but they would be better than they were in that survey.

Mr. SERRANO. Did you say 100 percent?

Ms. SPRINGER. Or 1,000. 1,000, excuse me. I am more of a basketball fan than a baseball.

Mr. SERRANO. I understand. This committee is heavy on baseball. I have some questions that I will put on the record.

Mr. REGULA. I have questions for the record.

Mr. SERRANO. Without objection, those will be inserted in the record.

Director Springer, we thank you for your testimony. We thank you for your work. We will continue to stay in touch with you, the committee will, on the issues we discussed. So that you could keep us—you can alert us to what the changes are. I would encourage you to see if we can come up with a plan for recruiting in the territories. That would make this committee very happy, and that is not a bad thing. And with that, we thank you for your service and we thank you for your testimony today.

Ms. SPRINGER. Thank you, Mr. Chairman.

Mr. SERRANO. Thank you. The subcommittee hearing is adjourned.

Questions for the Record
Submitted by Chairman José E. Serrano

1. Contractor employees. Director Springer, your biography notes that you are the chief executive of a 10,000 person organization – a figure that includes employees and contractors. I understand that most of the contract employees work in investigative services, but I'm interested in the use of contract employees across the agency.

- **Please provide a list of how many contractor employees have worked within each major organization or activity within OPM for fiscal years 2006 through 2008:**

FY06: 7941 FY07: 8228 FY08: 7913 to date

(see Attachment I)

FY06	FY07	FY08
OPM Contractors:	OPM Contractors:	OPM Contractors:
7941	8228	7913
TRB:	TRB:	TRB:
588	751	759
MSD:	MSD:	MSD:
383	392	382
MSD/CIS	MSD/CIS	MSD/CIS
293	302	299
MSD/CSEA	MSD/CSEA	MSD/CSEA
45	45	44
MSD/FMG	MSD/FMG	MSD/FMG
45	45	39
SHRP:	SHRP:	SHRP:
7	7	6
HCLMSA:	HCLMSA:	HCLMSA:
10	10	9
HRPS:	HRPS:	HRPS:
182	269	269
Boyers:	Boyers:	Boyers:
7197	7309	6956
FISD	FISD	FISD
1019	997	999
FISD (Fieldwork)	FISD (Fieldwork)	FISD (Fieldwork)
6168	6302	5947
ROC	ROC	ROC
10	10	10
Macon:	Macon:	Macon:
30	25	35
HRPS Other:	HRPS Other:	HRPS Other:
120	70	70
FEI	FEI	FEI
69	69	69
EMDC	EMDC	EMDC
51	1	1
All Other:	All Other:	All Other:
6	73	93

- **How much did the Office of Personnel management spend on contractor employees in fiscal year 2007? Please include contract support/administrative costs in addition to direct contract costs.**

<i>FY07: Direct contract costs:</i>	<i>\$ 410,633,921</i>
<i>Contract support/admin costs</i>	<i>\$ 9,316,922</i>
<i>Total contract cost:</i>	<i>\$ 419,950,843</i>

- **How many contractor employees currently work in space alongside of, and perform similar functions as, regular civil service employees of OPM?**

1745

- **What steps has OPM taken to ensure that contractor employees follow ethical standards that are at least as strong as the standards and laws that govern Federal employee conduct?**

The OPM Contracting Group includes in its solicitations and contracts as appropriate all the clauses in the Federal Acquisition Regulation (FAR) related to the ethical conduct of contractor employees, and has developed a number of OPM-specific clauses as well. Attachment 2 contains the text of all these clauses. Here are some highlights:

- *FAR Clause 52.203-13 requires contractors to maintain a code of business ethics and conduct. This clause must be used in all solicitations and contracts if the value of the contract is expected to exceed \$5,000,000 and the performance period is 120 days or more.*
- *FAR Clause 52.203-14 requires contractors to post fraud hotline posters in their facilities. This clause must be used in all contracts that exceed \$5,000,000 and the agency has a fraud hotline poster or the contract is funded with disaster assistance funds.*
- *FAR Clauses 52.209-5 and -6 levy various requirements on contractors regarding debarment and suspension. The first clause must be placed in solicitations expected to result in award of a contract above the simplified acquisition threshold (\$3,000), and the second in solicitations and contracts with an expected contract value exceeding \$30,000.*
- *OPM-specific clauses 1752.209-72 through -74 deal with general qualifications of contractor employees; their standards of conduct; and organizational conflicts of interest. The first two clauses must be used in all solicitations and contracts requiring contractor performance at OPM locations, and the third must be used in all solicitations and contracts.*

Contract Clauses Governing Ethics of Contractor Employees

Federal Acquisition Clauses

52.203-13 Contractor Code of Business Ethics and Conduct (Dec 2007)

(a) Definition.

“United States,” as used in this clause, means the 50 States, the District of Columbia, and outlying areas.

(b) Code of business ethics and conduct.

(1) Within 30 days after contract award, unless the Contracting Officer establishes a longer time period, the Contractor shall—

(i) Have a written code of business ethics and conduct; and

(ii) Provide a copy of the code to each employee engaged in performance of the contract.

(2) The Contractor shall promote compliance with its code of business ethics and conduct.

(c) Awareness program and internal control system for other than small businesses.

This paragraph (c) does not apply if the Contractor has represented itself as a small business concern pursuant to the award of this contract. The Contractor shall establish within 90 days after contract award, unless the Contracting Officer establishes a longer time period—

(1) An ongoing business ethics and business conduct awareness program; and

(2) An internal control system.

(i) The Contractor’s internal control system shall—

(A) Facilitate timely discovery of improper conduct in connection with Government contracts; and

(B) Ensure corrective measures are promptly instituted and carried out.

(ii) For example, the Contractor’s internal control system should provide for—

(A) Periodic reviews of company business practices, procedures, policies, and internal controls for compliance with the Contractor’s code of business ethics and conduct and the special requirements of Government contracting;

(B) An internal reporting mechanism, such as a hotline, by which employees may report suspected instances of improper conduct, and instructions that encourage employees to make such reports;

(C) Internal and/or external audits, as appropriate; and

(D) Disciplinary action for improper conduct.

(d) *Subcontracts.* The Contractor shall include the substance of this clause, including this paragraph (d), in subcontracts that have a value in excess of \$5,000,000 and a performance period of more than 120 days, except when the subcontract—

(1) Is for the acquisition of a commercial item; or

(2) Is performed entirely outside the United States.

52.203-14 Display of Hotline Poster(s) (Dec 2007)*(a) Definition.*

"United States," as used in this clause, means the 50 States, the District of Columbia, and outlying areas.

(b) Display of fraud hotline poster(s). Except as provided in paragraph (c)—

(1) During contract performance in the United States, the Contractor shall prominently display in common work areas within business segments performing work under this contract and at contract work sites—

(i) Any agency fraud hotline poster or Department of Homeland Security (DHS) fraud hotline poster identified in paragraph (b)(3) of this clause; and

(ii) Any DHS fraud hotline poster subsequently identified by the Contracting Officer.

(2) Additionally, if the Contractor maintains a company website as a method of providing information to employees, the Contractor shall display an electronic version of the poster(s) at the website.

(3) Any required posters may be obtained as follows:

<i>Poster(s)</i>	<i>Obtain from</i>
<i>(Contracting Officer shall insert—</i>	
(i) Appropriate agency name(s) and/or title of applicable Department of Homeland Security fraud hotline poster); and	
(ii) The website(s) or other contact information for obtaining the poster(s).)	

(c) If the Contractor has implemented a business ethics and conduct awareness program, including a reporting mechanism, such as a hotline poster, then the Contractor need not display any agency fraud hotline posters as required in paragraph (b) of this clause, other than any required DHS posters.

(d) *Subcontracts.* The Contractor shall include the substance of this clause, including this paragraph (d), in all subcontracts that exceed \$5,000,000, except when the subcontract—

(1) Is for the acquisition of a commercial item; or

(2) Is performed entirely outside the United States.

52.209-5 Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters (Dec 2001)

(a)(1) The Offeror certifies, to the best of its knowledge and belief, that—

(i) The Offeror and/or any of its Principals—

(A) Are or are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

(B) Have o have not o, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and

(C) Are o are not o presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph (a)(1)(i)(B) of this provision.

(ii) The Offeror has o has not o, within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.

(2) "Principals," for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (*e.g.*, general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

This Certification Concerns a Matter Within the Jurisdiction of an Agency of the United States and the Making of a False, Fictitious, or Fraudulent Certification May Render the Maker Subject to Prosecution Under Section 1001, Title 18, United States Code.

(b) The Offeror shall provide immediate written notice to the Contracting Officer if, at any time prior to contract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(c) A certification that any of the items in paragraph (a) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Offeror's responsibility. Failure of the Offeror to furnish a certification or provide such additional information as requested by the Contracting Officer may render the Offeror nonresponsible.

(d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

(e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to other remedies available to the Government, the Contracting Officer may terminate the contract resulting from this solicitation for default.

52.209-6 Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (Sept 2006)

(a) The Government suspends or debar Contractors to protect the Government's interests. The Contractor shall not enter into any subcontract in excess of \$30,000 with a Contractor that is debarred, suspended, or proposed for debarment unless there is a compelling reason to do so.

(b) The Contractor shall require each proposed first-tier subcontractor, whose subcontract will exceed \$30,000, to disclose to the Contractor, in writing, whether as of the time of award of the subcontract, the subcontractor, or its principals, is or is not debarred, suspended, or proposed for debarment by the Federal Government.

(c) A corporate officer or a designee of the Contractor shall notify the Contracting Officer, in writing, before entering into a subcontract with a party that is debarred, suspended, or proposed for debarment (see FAR 9.404 for information on the Excluded Parties List System). The notice must include the following:

- (1) The name of the subcontractor.
- (2) The Contractor's knowledge of the reasons for the subcontractor being in the Excluded Parties List System.
- (3) The compelling reason(s) for doing business with the subcontractor notwithstanding its inclusion in the Excluded Parties List System.
- (4) The systems and procedures the Contractor has established to ensure that it is fully protecting the Government's interests when dealing with such subcontractor in view of the specific basis for the party's debarment, suspension, or proposed debarment.

OPM-Specific Clauses

1752.209-72 Qualifications of Contractor's Employees

The Contracting Officer may require dismissal from work of those employees which he/she deems incompetent, careless, insubordinate, unsuitable or otherwise objectionable, or whose continued employment he/she deems contrary to the public interest or inconsistent with the best interest of national security. The Contractor must fill out, and cause each of its employees on the contract work to fill out, for submission to the Government, such forms as may be necessary for security or other reasons. Upon request of the Contracting Officer, the Contractor's employees must be fingerprinted. Each employee of the Contractor who works on this contract shall be a citizen of the United States of America, or an alien who has been lawfully admitted for permanent residence as evidenced by Alien Registration Receipt Card Form 1-151, or who presents other evidence from the Immigration and Naturalization Service that employment will not affect his/her immigration status.

1752.209-73 Standards of Conduct

(a) Personnel assigned by the contractor to the performance of work under this order must be acceptable to the Government in terms of personal and professional conduct. Contractor personnel shall conform to standards of conduct as follows:

(1) No contractor employees shall solicit new business while performing work under this order.

(2) The contractor and its employees shall not discuss with unauthorized persons any information obtained in the performance of work under this order.

(b) Should the continued assignment to work under this order of any person in the contractor's organization be deemed by the Contracting Officer to conflict with the interests of the Government, that person shall be removed immediately from assignment, and the reason for removal shall be fully documented in writing by the Contracting Officer. Employment and staffing difficulties shall not be justification for failure to meet established schedules, and if such difficulties impair performance, the contractor may be subject to default.

1752.209-74 Organizational Conflicts of Interest

(a) The Contractor warrants that, to the best of the Contractor's knowledge and belief, there are no relevant facts or circumstances which could give rise to an organizational conflict of interest (OCI), as defined in FAR 9.5, Organizational and Consultants Conflicts of Interest, or that the Contractor has disclosed all such relevant information.

(b) The Contractor agrees that if an actual or potential OCI is discovered after award, the Contractor shall make a full disclosure in writing to the Contracting Officer. This disclosure must include a description of actions, which the Contractor has taken or proposes to take, after consultation with the Contracting Officer, to avoid, mitigate, or neutralize the actual or potential conflict.

(c) The Contracting Officer may terminate this contract for convenience, in whole or in part, if it deems such termination necessary to avoid an OCI. If the Contractor was aware of a potential OCI prior to award or discovered an actual or potential conflict after award and did not disclose or misrepresented relevant information to the Contracting Office, the Government may terminate the contract for default, debar the Contractor from Government contracting, or pursue such other remedies as may be permitted by law or this contract.

(d) The Contractor must include this clause in all subcontracts and in lower tier subcontracts unless a waiver is requested from, and granted by, the Contracting Officer.

(e) In the event that a requirement changes in such a way as to create a potential conflict of interest for the Contractor, the Contractor must:

(1) Notify the Contracting Officer of a potential conflict, and;

- (2) Recommend to the Government an alternate approach which would avoid the potential conflict, or
- (3) Present for approval a conflict of interest mitigation plan that will:
 - (i) Describe in detail the changed requirement that creates the potential conflict of interest; and
 - (ii) Outline in detail the actions to be taken by the Contractor or the Government in the performance of the task to mitigate the conflict, division of subcontractor effort, and limited access to information, or other acceptable means.
- (4) The Contractor must not commence work on a changed requirement related to a potential conflict of interest until specifically notified by the Contracting Officer to proceed.
- (5) If the Contracting Officer determines that it is in the best interest of the Government to proceed with work, notwithstanding a conflict of interest, a request for waiver must be submitted in accordance with FAR 9.503.

2. Competitive contracting.

- **For fiscal year 2007, did OPM enter into contracts that were not fully and openly competed? If so, what were the reasons for entering into such contracts? What is the total amount of money spent on such contracts?**

Yes, in fiscal year 2007, OPM did enter into contracts that were not fully and openly competed. Most of these were not competed fully and openly because they met one of the criteria in the Federal Acquisition Regulation for restricting competition, primarily the fact that only one source could provide the product or perform the service. Others were follow-on contracts to previously competed actions, or otherwise not available for competition (like utility services.)

During fiscal year 2007, OPM awarded a total of 679 contracts that were not competed on a full and open basis. A total of \$30,749,454.46 was spent on such contracts, or about 6 percent of the dollars spent for all contracts by OPM.

- **Were there contracts entered into during 2007 that were open to a competitive process but where there was only one respondent (the eventual awardee) to the solicitation? If so, please provide a list of these contracts, including their cost.**

*During fiscal year 2007, OPM awarded a total of 67 contracts that were competed but with only one response received to the solicitation. These contracts totaled \$5,800,560. The complete list is in **Attachment 3**.*

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- **Please provide a listing of all fiscal year 2007 outside contracts of \$50,000 or more. Please indicate which contracts were not fully and openly competed.**

*In Fiscal Year 2007, OPM awarded a total of 1,956 contracts with a value of \$50,000 or more, with a total value of \$677,011,556. **Attachment 4** contains a listing of these contracts, with the competition status indicated beside each.*

[Clerk's note: Attachment 4 follows the remaining questions for the record.]

3. Presidential transition.

- **What role will OPM have in assisting in the transition to a new Administration in 2009?**

*OPM has a wide range of responsibilities during the Presidential transition period. Particularly during this Presidential election year, OPM will continue to work with Federal agencies to ensure all personnel actions remain free of political influence or other improprieties and meet all relevant civil service laws, rules, and regulations. We are already coordinating closely with agency Chief Human Capital Officers on transition-related human resources management issues, and have begun gathering information at the request of the Senate Committee on Homeland Security and Governmental Affairs to facilitate the printing in November of United States Government Policy and Supporting Positions, commonly known as the Plum Book. We will be updating our **Presidential Transition Guide to Federal Human Resources Management Matters** as required by the Intelligence Reform and Terrorism Prevention Act of 2004.*

- **What support and guidance will OPM offer to new presidential appointees and other staff?**

We are updating our Presidential Transition Guide to Federal Human Resources Management Matters, coordinating preparedness issues with Federal Executive Boards in the Presidential nominating convention host cities and, as required by the Intelligence Reform and Terrorism Prevention Act of 2004, sending a detailed listing of Presidentially-appointed positions to the Republican and Democratic candidates for President within 15 days of their nominating conventions.

- **In 2004, OPM published a Presidential Transition Guide describing the rules, regulations, and policies that govern the establishment of transition teams, the departure and appointment of political appointees, and the treatment of career Federal**

employees during the transition. Does OPM plan to issue an updated presidential transition guide for the next transition?

The updated Presidential Transition Guide to Federal Human Resources Management Matters is scheduled for release in June 2008.

- **What steps are you taking to prepare OPM for its own internal transition to new leadership next year?**

I continue to meet with OPM's senior staff to discuss transition issues and ensure they are given a high agency priority. OPM will ensure a leadership structure is in place in every organization to guarantee that OPM's mission is appropriately carried out during the Presidential transition period, and the incoming leadership team is well briefed and prepared for issues effecting Federal human resources management. OPM has also organized an internal coordination team that includes representatives of all OPM organizational components. The team is preparing a consolidated list of transition-related actions to ensure a smooth transition of leadership.

4. Human Resources Line of Business Initiative.

- **Please describe the status of the Human Resources Line of Business initiative.**

The Human Resources Line of Business (HR LOB) provides the Federal Government's Human Resources community a model by which to deliver their services and the standards by which to modernize their Human Resources systems. This enables the transformation of the Human Resources workforce from an administrative focus to strategic management focus. Delivery of Human Resources services through shared service providers drives standardization of Human Resources business functions and processes, allowing Federal departments and agencies to manage Human Resources more effectively, and provides managers and executives across the Federal Government improved means to meet strategic objectives.

Since April 2004, the HR LOB has actively engaged 24 agencies in defining not only its vision, goals, and objectives, but the common solution, target architecture, and supporting business case. In April 2005, OPM established the Multi-Agency Executive Strategy Committee (MAESC) and its subcommittees to continue the efforts of the interagency task force of the previous year. Since that time the MAESC has led the HR LOB initiative through the following major achievements:

- *Development of the first ever end-to-end Human Resources Enterprise Architecture consisting of a Business Reference Model, Service Component Model, Data Model, Performance Model and Technical Model,*

- *Development of the HR LOB Target Requirements for the Shared Service Centers containing a set of detailed business, technical, and data requirements,*
 - *Evaluation and selection of five public Shared Service Centers (SSCs),*
 - *Evaluation and selection of four private Shared Service Centers (SSCs), and*
 - *Development of migration guidance and a competition framework that will allow agencies to plan for and execute the selection of shared service providers.*
- **What challenges has OPM faced in implementing the initiative and how have those challenges been addressed?**

Challenge 1: Obtaining agency buy-in and support for the HR LOB initiative.

Resolution: Beginning in April 2004, the HR LOB engaged 24 agencies in defining not only its vision, goals, and objectives, but the common solution, target architecture, and supporting business case. In April 2005, OPM established a robust governance structure that includes the Multi-Agency Executive Strategy Committee (MAESC) and its sub-committees to continue the efforts of the interagency task force of the previous year. The truly collaborative nature of the HR LOB effort has been reflected in the achievement of each accomplishment. OPM recognizes how vital it is to continue to reach out to the MAESC partner agencies and the Federal Government to collaborate towards achieving the vision of the HR LOB.

Challenge 2: Setting Governmentwide standards for human resources.

Resolution: The HR LOB, through an active participation from partner agencies, developed and validated enterprise architecture models and target requirements for delivery of human resources solutions by Shared Service Centers (SSCs). Together, these provide a blueprint for transformation of the Human Resources business function, thus providing a basis for the Federal Government to rethink its approach to Human Resources management. The HR LOB Enterprise Architecture (EA) was developed in accordance with the Federal Enterprise Architecture (FEA) and assists SSCs and agencies in standardizing their Human Resources processes and technology. Each of the EA Models was created as part of a collaborative, multi-agency effort, where agencies contributed resources and HR subject matter experts to EA workshops. Since each agency does not have to formulate its own Human Resources EA and requirements, this unified effort has allowed agencies to save significant time and resources.

Challenge 3: Establishment of shared service providers capable of delivering world-class services to customer agencies in accordance with the HR LOB vision and objectives.

Resolution: Five Federal agencies have been selected as HR LOB SSCs to deliver Human Resources services. Additionally, four private sector providers have also been selected as SSCs under GSA's Multiple Award Schedule program. At present, 85 percent of the Federal civilian workforce of 1.8 million people is receiving service from the Federal SSCs. Public and private sector SSCs will compete to provide Human Resources services to agencies and this competition is expected to drive improvements in Human Resources services and service delivery.

Challenge 4: Need for detailed guidance that allows customer agencies to select and migrate to a chosen provider.

Resolution: The HR LOB developed a best practices report and a Migration Planning Guidance document that agencies may use to assess their current Human Resources business operations, define their future Human Resources business operations, select an HR LOB SSC, migrate to the selected SSC, and operate and improve Human Resources service delivery in the future. In addition, a competition framework has been developed and published that informs agencies how to select a shared service provider. Transformative best practices and the migration planning guidance help agencies assess their current Human Resources function and define their future Human Resources operational model.

▪ **Please describe the methodology used to estimate cost savings associated with this initiative.**

The HR LOB cost-savings estimate is based on costs and benefits associated with the establishment of Governmentwide shared Service Centers to support multiple agencies in Human Resources management and back office activities. Multiple Service Centers have been established through competitive procurement among public and private sectors to leverage economies of scale, reduce costs, and increase the quality and consistency of service provided.

Estimated savings are based on a Cost Model developed as part of the initial Capital Asset Plan for the FY 2006 budget year. The Cost Model assumes a build out of shared service centers and agency migration costs over the HR LOB 10-year lifecycle. All estimates are conservative and represent rough orders of magnitude for each investment component. The model estimates costs for the lifecycle from FY 2005 through FY 2015 and costs are shown in the year they are incurred. Costs for this model are based on the development of six (6) Service Centers built from the ground up, established via competitive process, and operated by public, private, and/or public/private partnerships.

Benefits include the development and maintenance of a limited number of Human Resources systems, standardization of Human Resources data and processes, the elimination of redundant legacy systems, and the reduction of operations and maintenance through combined services and economies of scale.

5. Human capital management as a high-risk area. The Government Accountability Office first designated strategic human capital management as a Governmentwide high-risk area in 2001 because federal agencies lacked a strategic approach to managing their human capital. Although progress has been made in some areas, in its 2007 high risk update, GAO reported that challenges still remained with how the government classifies, compensates, develops, and motivates its employees.

- **What steps is OPM taking to address these challenges and how is OPM working with the Office of Management and Budget and other Federal agencies on these issues?**

Since the enactment of the Chief Human Capital Officers (CHCO) Act of 2002 and the adoption of the Human Capital Assessment and Accountability Framework (HCAAF), OPM has led the Federal Government's strategic human capital management. OPM uses the five HCAAF systems (Strategic Alignment; Leadership and Knowledge Management; Results-Oriented Performance Culture; Talent Management and Accountability) to advance strategic management of human capital and achieve organizational results. OPM works through the President's Management Agenda scoring initiative to conduct quarterly assessments of agency human capital programs. Scoring results demonstrate that Federal agencies have aligned human capital planning with their missions and strategies; improved their performance management systems; implemented succession management programs to ensure continuity of leadership; closed competency gaps in numerous mission-critical occupations; and institutionalized human capital accountability systems to evaluate and improve their Human Capital programs.

Working with the CHCO Council and Federal agencies, OPM has developed a comprehensive program of ongoing evaluation, consultative engagement, and development of tools designed to help agencies improve their strategic management of human capital. OPM's effectiveness is demonstrated in a recent independent evaluation of the Human Capital program, which found that 81 percent of agency representatives indicated that they are familiar with the program's products and services. When rating five indicators of satisfaction with the Human Capital program, 61 percent of agency respondents indicated they were satisfied or very satisfied. When asked to compare the Human Capital program's current effectiveness with its effectiveness 3 to 4 years ago (2003-04), 54.4 percent of agency respondents rated OPM's Human Capital program as more, or much more, effective.

OPM will continue to lead agency Human Capital Management through our administration of final regulations for the CHCO Act of 2002 (5 CFR part 250, forthcoming). These regulations will require agencies to report annually to OPM on their progress in institutionalizing the HCAAF. Based on these reports, OPM will assess Governmentwide priorities and create annual program plans for building agency capacity in strategic human capital management.

In addition, OPM works closely with the classification community and stakeholder groups, like the Chief Information Officers Council, to identify and address emerging classification issues and to implement updated classification standards and guidance each fiscal year. OPM established a quarterly classification policy forum to provide a venue for the community to share best practices and keep abreast of new policy and trends in related fields that affect position classification. Moreover, OPM continues to work with the Department of Defense (DoD) to adjust classification elements of the National Security Personnel System, addressing issues identified as DoD rolls out the system.

6. Hiring flexibility. In recent years, Congress has provided agencies with additional flexibility in carrying out the Federal hiring process. For example, category rating is an alternative to the traditional selection procedure that limited Federal managers to choosing from among only the top three ranked candidates. Under category rating, applicants are placed in categories based on their qualifications and veterans' preference. However, agencies have been slow to use these hiring flexibilities.

▪ **What action still needs to be taken to improve the timeliness and quality of the federal hiring process?**

The Federal Government has made substantial progress in reducing the time it takes to hire employees in the civil service. Currently, the average time to hire ranges between 30 and 33 business days. The use of hiring flexibilities is an important tactic in achieving this average. However, we realize that improvements to our hiring process are still needed to compete for top talent with the private sector.

OPM, in collaboration with the Chief Human Capital Officers Council and with input from external stakeholders, has designed an "End-to-End Hiring Model" for the Federal Government. This initiative is intended to further reduce the time it takes to bring top talent into the Federal workforce and increase applicant satisfaction with the Federal hiring process. The model is designed to better integrate and streamline the key processes that drive employee retention and recruitment. Its key components are workforce planning, recruitment, hiring process, suitability/security, and new employee orientation. Governmentwide standards and measures have been identified for each component. A number of agencies will pilot parts of this hiring model in FY 2008. Based on the pilot experiences and agency feedback, OPM will identify aspects of the model that

perhaps should be revised or refined and will use annual accountability reports to monitor and assist agencies in achieving progress.

- A tension often exists between Federal agencies' use of available hiring flexibilities while also ensuring fair and open competition in their hiring processes for a diverse workforce.
- **How should agencies best ensure that they are making the use of flexibilities to speed up hiring while still ensuring that they are recruiting and hiring a diverse workforce and what is OPM doing, if anything, to help agencies in this effort?**

Hiring flexibilities have the potential for improving agencies' ability to get the right people in the right jobs at the right time. OPM has provided agencies with guidance and training on the use of hiring flexibilities to ensure their human resources practitioners and hiring officials are informed and prepared to use these hiring flexibilities. For example, the Hiring Flexibilities Toolkit is available on OPM's website. Also, OPM's Human Capital Officers are assisting agencies with information on the use of these flexibilities. As the agency tasked with protecting the merit system, OPM also takes very seriously the need to provide equal opportunities for all citizens to serve in the Federal Government. Through our compliance activities, we ensure agencies are making appropriate use of hiring flexibilities and are hiring in accordance with merit system principles.

7. Pay-for-performance. Over the past several months, pay-for-performance programs at certain Federal agencies have been criticized and even suspended. For example, FDIC suspended its pay-for-performance program covering employees for the 2007 performance cycle and SEC's program was found to discriminate against African Americans and older workers.

- **What steps is OPM taking to ensure that pay-for-performance systems are fair, workable, and have the support of the employees who would work under them?**

OPM, OMB, and GAO have developed a set of criteria that are critical to the success of the pay-for-performance systems and to the development of a results-oriented performance culture. Employee involvement is one of those criteria. The complete list of criteria is as follows:

- **Alignment.** *Employee performance plans align with and support organizational goals.*
- **Results-focus.** *Employee performance plans hold employees accountable for achieving results appropriate to their level of responsibility.*
- **Credible measures.** *Employee performance plans provide for balance, so that, in addition to measuring expected results, the*

performance plans include appropriate measures, such as quality, quantity, timeliness, cost-effectiveness, indicators of competencies, and customer perspective. For managers and supervisors, performance plans should also incorporate employee perspective.

- **Distinctions in levels of performance.** The appraisal program provides for multiple levels to appraise performance, and rating officials use those levels to clearly describe distinctive levels of performance and appropriately rate employee performance.
- **Consequences.** The result of appraisal is used for recognizing top performers and addressing poor performance.
- **Employee involvement.** Employees are involved in the design of the appraisal program and in the development of their performance plans.
- **Feedback and dialogue.** The appraisal program establishes a performance feedback process that ensures a dialogue between supervisors, managers, and employees throughout the year.
- **Training.** The appraisal program requires that executives, managers, supervisors, and employees receive adequate training and retraining on the performance appraisal program. In addition, supervisors must have the competencies necessary for managing performance.
- **Organizational assessment and guidance.** The appraisal program requires that appropriate organizational performance assessments are made and communicated to rating officials, and that guidance is provided by the head of the agency or designee on how to incorporate organizational performance into the assessment process, especially regarding the appraisal of managerial and supervisory employees.
- **Oversight and accountability.** The head of the agency or designee has oversight of the results of appraisals and awards, ensures that the program operates effectively and efficiently, and ensures that appraisals and awards are based on performance. In addition, managers and supervisors are held accountable for the performance management of their subordinates.

These criteria have become the basis for implementing pay-for-performance systems in the Senior Executive Service (SES) and in other alternative personnel systems such as the Defense Department's National Security Personnel System (NSPS).

Through the SES appraisal system certification process, OPM carefully reviews agency SES performance management systems to ensure those systems fully demonstrate – through design, implementation, and results – that they meet these criteria. Recently, OPM conducted a survey of the SES, including several questions relating to SES performance management. We are currently compiling the results and will use this comprehensive feedback to identify both best practices and continuing weaknesses in agency SES performance management systems.

In March 2008, the Chief Human Capital Officers (CHCO) Council issued a Collection of Human Capital Practices. This document contains several human capital strategies from a number of agencies on topics including performance management, learning and development, closing competency gaps, and telework. Each individual synopsis was submitted by the agency implementing the highlighted strategy. Information for the document was collected through a variety of means, including the 2006 Federal Human Capital Survey, our CHCO Council Training Academy sessions, and the Council's subcommittees. The document is available on the Council's website at www.chcoc.gov.

In addition to evaluating current pay-for-performance systems, OPM has developed the Performance Appraisal and Assessment Tool (PAAT) to evaluate agency non-SES performance management systems against these criteria. The PAAT focuses on the design, implementation, and results of performance management systems, and incorporates employee perspectives into the evaluation. Almost all agencies are improving all performance management systems for all employees in order to meet the PAAT criteria. A few of the agencies not subject to OPM performance management regulation, such as Government corporations and financial regulatory agencies, have also participated in evaluating their systems using the PAAT.

At the same time, OPM works in partnership with agencies to develop, implement, evaluate, and monitor personnel management demonstration projects. Below are some of OPM's key roles with respect to demonstration projects:

- *Set the overall policy for demonstration projects, including evaluations*
- *Provide technical advice and assistance in the development, implementation, and evaluation of projects*
- *Grant final approval of the project, project evaluation plan, and evaluation reports*
- *Monitor progress of projects through the formal evaluation process, periodic reviews of project operations, OPM audit reviews, and/or site visits.*

Under the demonstration project authority (chapter 47 of title 5), laws pertaining to the merit system principles and prohibited personnel practices cannot be waived. In addition, pay-for-performance demonstration projects may not be initiated unless they incorporate certain design elements, including a fair, credible, and transparent employee performance appraisal system, a means for ensuring employee involvement in the design and implementation of the system, and effective safeguards to ensure that the management of the system is fair and equitable and based on employee performance.

8. Veterans. Because of the ongoing war in Iraq and Afghanistan, it is likely that an increasing number of veterans – some with physical disabilities – will be joining the Federal workforce.

▪ **What steps should agencies take to ensure they have employee assistance and other programs to meet the needs of veterans?**

Federal agencies should do all they can to ensure that veterans and their families benefit from the services they have earned. We believe agencies would do well to focus their efforts in the following areas:

Recruitment and Hiring

- Build partnerships with Veterans' Service Organizations (VSOs), military departments, and rehabilitation agencies aimed at recruiting and employing veterans and disabled veterans. For example, OPM staffs veterans' outreach offices at Walter Reed, Brooke Army Medical Center, and Ft. Carson, where we provide employment assistance to transitioning military members.
- Enhance veterans' outreach efforts through visits to military transition centers, participation in military job fairs, and attendance at VSO conferences and meetings.
- Participate in job fairs that target veterans and transitioning military members, such as the New York Times Salute Our Heroes Job Fair, and come ready to hire with jobs in hand.
- Use veterans and disabled veterans already working for the agency as role models for targeted recruitment and outreach efforts.
- Review hiring strategies to see how widely the agency is using special hiring authorities for veterans, such as the Veterans Recruitment Appointment authority, the Veterans Employment Opportunities Act, and hiring authorities for disabled veterans.
- Develop a marketing and recruitment strategy to enhance the quality of employment information available to transitioning service members and veterans.
- Track and measure the results of recruitment strategies for hiring veterans.

Training and Information

- Educate hiring managers on special hiring authorities designed to support veterans' employment and highlight how the agency's talent needs may be served through quick, noncompetitive appointment of qualified veterans.
- Educate hiring managers on the business-based value of adding veterans to the workforce.
- Ensure that top management reinforces the message that veterans are uniquely qualified for Federal jobs by virtue of their military training, experience, and discipline.
- Send Human Resources staff and hiring managers to workshops and conferences that feature innovative strategies for recruiting and employing veterans.

It should also be noted that all Federal agencies have Employee Assistance Programs (EAPs) in place that provide psychosocial and behavioral health support to employees and management. These programs should already be able to serve the needs of returning veterans as they integrate or reintegrate into Federal workplaces.

More specifically, if we were to advise agencies about how they should ensure their organizations were ready for these veterans, we would want agency EAPs to have the capacity to:

- *work with managers and Human Resources staff to help them identify signs or symptoms of Post-Traumatic Stress Disorder (PTSD) and other associated issues (depression, substance abuse) for this population, and how to make effective referrals to the EAP*
- *ensure that counselors are available who have specific training in working with this community*
- *help the organization design outreach tools for employees to help them understand and be sensitive to the possible challenges veterans may face, and*
- *reach out to veterans over the long term so that they are aware of this resource and comfortable with accessing the services as needed.*

In addition to the psychosocial support, veterans may need accommodation for physical disabilities. OPM works with agencies to implement telework programs, which could be an important component of the full range of accommodation.

9. Merit system oversight. The increased availability and use of human capital flexibilities across the Federal Government raises the issue of oversight of the merit system.

- **What role do you see OPM playing in ensuring that civil service laws and policies are complied with by agencies that, in many cases, are seeking more exemptions from those rules, and what mechanisms should be used to hold agencies accountable?**

OPM has taken a number of steps over the past several years to create a more nimble Federal human resources system. We have streamlined regulations, delegated Human Resources authority to Federal agencies, and provided agencies more flexibility and a wider array of tools to hire, reward, and retain their employees. We also played a key role in establishing alternative Human Resources systems, such as the National Security Personnel System in the Department of Defense, providing much-needed flexibility to meet the challenges of a post-9/11 world.

In all these efforts, OPM's longstanding role as guardian of the merit system remains unchanged. All of these flexibilities must be exercised consistent with the merit system principles. If an agency is found to be violating merit principles in

its implementation of human capital flexibilities, OPM may revoke a delegated authority to use the flexibilities and require corrective action.

Through OPM's statutory oversight of human capital management, we rigorously evaluate agency delegated examining units (DEUs) to ensure that competitive hiring practices meet all legal and regulatory requirements and strictly follow merit system principles. During the last two fiscal years, either on our own or working in partnership with agencies, we evaluated 276 DEUs and reevaluated those where serious problems were found.

As part of every DEU assessment, we carefully examine how agencies make selections and process job applications. We give particular attention to whether veterans' preference was properly applied, reviewing certificates of eligible candidates to see if there are patterns in how those certificates are used -- or not used -- that would indicate whether or not veterans are receiving legitimate consideration. When we find violations of law or regulation, we make sure the agency takes corrective action. If the violation is serious or reflects an intentional disregard for the law, we refer the case to the U.S. Office of Special Counsel or the agency's Inspector General. We may also withdraw an agency's delegated examining authority if we find systemic problems.

OPM annually conducts in-depth Human Resources evaluations at small agencies where we not only examine competitive hiring practices, but also look at workforce planning, performance management, knowledge management, leadership and succession planning, and other human capital areas. We recommend improvements that we believe will help agencies operate more effectively, but we require agencies to take corrective steps if we uncover serious problems.

During the past two years, OPM has been working with agencies to help them develop sound internal accountability systems so they can better evaluate the strengths and weaknesses of their own human capital programs. While each internal accountability system must include an agency-led self-evaluation of Human Resources programs, OPM fully participates as a partner in these assessments to safeguard merit principles and promote effective, mission-focused human capital practices. OPM has proposed regulations, which we expect to publish soon at 5 CFR part 250, that make internal accountability systems a requirement for agencies. The regulations will also require agencies to report annually to OPM on the status of their human capital programs.

OPM provides regular training to agency Human Resources practitioners to certify them for conducting competitive examining, and on-line recertification training every three years in order to maintain certification. To support and strengthen the agency accountability initiative, we have established a recurring community of practice forum for agency Human Resources evaluators, and we are currently conducting a series of three-day training courses for Human Resources practitioners in evaluation techniques and methodologies. All of these mechanisms are aimed at holding agencies accountable for effective, merit-based

human capital practices, and will serve the Government well as agencies continue to push for greater flexibility.

10. OPM and EEOC. Developing and maintaining workforces that reflect all segments of society and our nation's diversity is a key part of agencies' recruitment challenge. OPM, under the Federal Equal Opportunity Recruitment Program, and the Equal Employment Opportunity Commission, under Title VII requirements, have a shared responsibility in helping to ensure that federal agencies have inclusive workforces and workplaces that are fair and free from discrimination.

▪ **How would you describe OPM's responsibility versus EEOC's in this important area?**

OPM's mission is to ensure the Federal Government has a high-quality, agile and diverse Federal workforce. OPM and EEOC have related, but distinctive, responsibilities under the Equal Employment Opportunity (EEO) framework. OPM has an obligation under Executive Order 13171, Executive Order 13163, and the Federal Equal Opportunity Recruitment Program (FEORP) statute to request plans and specific information from Federal agencies on human capital practices and their efforts to develop a workforce that is drawn from America's diversity. OPM is responsible for title II of the Notification and Federal Employee Antidiscrimination and Retaliation (No FEAR) Act. OPM and EEOC have worked together and continue to collaborate in developing policy and providing guidance to Federal agencies in this important area.

▪ **How would you describe the current level of coordination between OPM and EEOC? What steps have been taken to improve coordination? Do you believe that coordination can be further improved? If so, how?**

OPM has reinstated its past practice of conferring with EEOC in preparing the annual FEORP Report. To further improve coordination and avoid duplication of efforts, OPM and EEOC are discussing means of easing some of the agency burden associated with responding to both EEOC and OPM reporting requirements.

11. Security clearance investigations. In recent congressional testimony, OPM's Associate Director for Investigations testified that OPM is completing security clearance investigations in accordance with the Intelligence Reform and Terrorism Prevention Act of 2004 (IRTPA) that currently requires OPM to complete 80 percent of its clearance investigations in an average of 90 days or less. Specifically, she stated that OPM completed 80 percent of the investigations it received in fiscal year 2007 in an average of 67 days. However, by the end of calendar year 2009,

IRTPA will require that 90 percent of clearance investigations be completed within an average of 40 days.

- **How will OPM be able to meet IRTPA's 2009 requirements and reduce the average number of days by an additional 27 days?**

In pursuit of the 2009 Intelligence Reform and Terrorism Prevention Act goals, OPM and the agencies are holding themselves accountable for providing 90 percent of the initial security clearances, end-to-end, in 105 days (versus 80 percent in 106 days currently). To support the targeted performance goals, we have set aggressive performance goals for September 2008. The goals are detailed in OMB's 2008 Report to Congress and include increasing the use of the electronic Questionnaires for Investigations Processing (e-QIP), improving the timeliness of third party responses, and reforming the security clearance process.

The Associate Director for Investigations also testified that OPM has significantly reduced the average time to complete security clearance investigations. The Associate Director has previously noted that she has had little indication from her customers—adjudicators who make the clearance eligibility determinations—that the investigative reports had problems because adjudicative facilities were returning 1 to 2 percent of the reports for rework. However, the number of investigations returned for rework is not by itself a valid indicator of the quality of investigative work because adjudication officials have said they were reluctant to return incomplete investigations in anticipation of further delays.

- **In addition to the percentage of investigations returned to OPM by adjudicating agencies, what metrics does OPM track internally about the quality of investigations?**
- **If there are additional measures of quality, why has there not been discussion of these measures in recent congressional testimony?**
- **What steps has OPM taken to ensure that the quality level of investigations remains constant while making these improvements in timeliness?**

In addition to recording and tracking the investigations returned by adjudicating offices for corrective actions, there are a number of quality "indicators" that are tracked and recorded.

- *OPM routinely conducts customer assessment surveys to obtain feedback from agencies on the products and services we provide. Over 300 agency*

program level or security offices responded to the November 2007 survey. Of these, 91 percent reported being satisfied with the content and quality of OPM's background investigations and 95 percent were satisfied with the overall services we provide.

- *OPM's Integrity Assurance program includes contacting personal and record sources of information for quality feedback on our Federal and contractor field agents. Overall, approximately 3 percent of all sources obtained by a field agent are recontacted by a written inquiry soliciting performance feedback. Both positive and negative feedback are used for individual performance management.*

OPM continues to have a robust internal quality review process. In March 2006, we supplemented that process by forming a Quality Management Group (QMG) that is responsible for consistent handling of quality concerns for both our Federal and contractor staff. Recently, we expanded QMG to conduct an additional random quality review of completed fieldwork.

In addition, we recognized early in the transfer of DoD's personnel security investigation function to OPM that the Defense Security Service (DSS) and OPM did not have a consistent interpretation of the coverage requirements. We conducted training for the field agents and quality review staff to standardize the scope and content of the investigations consistent with the national investigative standards. The training has continued for new FISD field agents and other investigative staff. In addition, we have updated the official investigator's handbook in partnership with DoD and the stakeholders that reinforces the common baseline standards for conducting background investigations.

To demonstrate the effectiveness of OPM's internal quality assurance program, we routinely report in our Congressional testimony the low percentage of investigations returned by adjudication offices for quality concerns. In the future, we will include additional quality measurements as requested.

OPM's policy has been to suspend tracking the time to complete an investigation in cases in which OPM is waiting only on information from third parties (e.g., if the only outstanding required item on an investigation is an FBI record check). In her February 13, 2008 congressional testimony statement, the Associate Director in charge of OPM's investigations unit did not indicate whether the investigation timeliness statistics presented in her statement included these 'closed pending' investigations in the calculation of the average times to complete all investigations.

- **Does OPM still include closed pending cases in the calculation of the timeliness statistics it reports to Congress?**

- **If so, why does OPM include closed pending cases with calculations of completed investigations in reporting to Congress instead of reporting them separately?**
- **If so, what is the percentage of closed pending cases included in those statistics?**

In her February 13, 2008, testimony, the Associate Director of OPM's investigations division provided timeliness statistics to show OPM's success in meeting the Intelligence Reform and Terrorism Prevention Act (IRTPA) requirement. The timeliness statistics she reported included only initial clearance investigations that were closed complete as specified by the Act.

As background, OPM developed the "closed pending" process as a service to the agencies that are able to make hiring or retention decisions based on the content of the "closed pending" package. Some agencies have opted out of receiving the "closed pending" package because they require the completed investigation before they will initiate the adjudication process. OPM continues to track "closed pending" cases for internal workload management purposes and works with the third party agencies to obtain timely responses.

12. Defense Security Service. In 2005, the functions and personnel of the Department of Defense's Defense Security Service (DSS) were transferred to OPM. As a result, OPM now performs over 90 percent of the Federal government's background investigations. Last year, the Defense appropriations subcommittee recommended a freeze on fees paid by DSS to OPM because of concerns over how OPM was modifying those fees. After discussions between this subcommittee, the Defense subcommittee, and OPM, the provision was dropped from the final FY 2008 defense bill. However, the Committee wants to be certain that the concerns that were raised last year are being addressed by OPM so that we don't have the issue come up again on the FY 2009 bill.

- **How has OPM been working with DSS to ensure better planning for and budgeting of charges that are assessed for background investigations?**

OPM has been working closely with DSS to resolve billing disputes and to assist the agency with its workload projections for the new fiscal year. DoD has also been working on an improved workload projection system to better forecast the number of investigation requests.

13. Prescription drug benefits subsidy. Please explain why OPM has not applied for the subsidy to which it is entitled under the Medicare Prescription Act of 2003. Under this law, which created the Medicare Part

D prescription drug program, the government is eligible to receive a subsidy payment made available to all employers who provide prescription drug benefits as generous as the Medicare program. According to GAO, OPM could have slowed the growth of health care premiums for Federal employees and retirees enrolled in FEHBP in some plans by up to 4 percent in 2006. Some estimate that OPM is foregoing up to \$1 billion a year by not applying for the subsidy.

- **Why isn't OPM applying for this subsidy?**

The intent of the subsidy is to encourage employers to continue providing prescription drug coverage to their Medicare-eligible retirees. As part of the Fiscal Year 2006 budget process, the potential use of the subsidy was evaluated by the Federal Government. This review found no good rationale for the Federal Government to pay itself to continue providing drug coverage to Federal retirees. OPM has no plans to eliminate prescription drug coverage for retirees.

14. Retirement Systems Modernization. OPM reports that it began the rollout of RetireEZ on February 25, 2008, and that about 26,000 employees in agencies serviced by the General Services Administration payroll center are eligible to retire under the new system.

- **What is the schedule for subsequent RetireEZ rollouts to cover the remainder of civilian Federal employees?**

RetireEZ is being rolled out in five Waves. Subsequent rollout for waves will begin according to the following schedule:

Wave 2 - US Postal Service - May 30, 2008

Wave 3 - National Business Center - August 29, 2008

Wave 4 - National Finance Center - November 28, 2008

Wave 5 - Defense Finance and Accounting System - February 27, 2009

The initial RetireEZ rollout was planned to include a feature, called Your Benefit Resource (YBR), which individual employees could use to model retirement scenarios. While YBR is being used now by benefits officers, general employee access will not be available until a subsequent release.

- **Why was YBR not made available to individual employees in the RetireEZ rollout?**

OPM elected to start with agency benefit officers who are extremely knowledgeable of the retirement process to obtain their feedback from a user

perspective and ensure any user driven modifications in functionality could be accomplished before the rollout to the larger employee population.

▪ **When will individual employees have access to YBR?**

OPM will provide direct access to Wave 1 employees on a selected basis. Access will be granted during the summer of 2008 and determined largely by proximity to retirement eligibility.

OPM reports that 150 distinct types of retirement calculations will be handled by RetireEZ and that about two thirds of these calculations are needed in the initial rollout.

▪ **What is the schedule for addressing the remaining calculations?**

OPM will be testing the balance of the initial 100 calculations in April/May 2008 with the plan of implementing these calculations during early summer 2008. Additional functionality will be added as needed for subsequent waves.

OPM reports that it is in the process of validating a baseline against which the RetireEZ program's performance can be measured.

▪ **When does OPM expect to have a valid baseline?**

OPM plans to complete an independent review and assessment of the RetireEZ baseline by July 2008.

OPM justified investing in RSM, in part, based on expected savings resulting from the decommissioning of legacy retirement systems.

▪ **When does OPM expect to decommission the legacy retirement systems?**

OPM expects to decommission the legacy systems during 2010.

15. 2007 Annual employee survey. OPM recently released its annual employee survey. Some of the results in specific areas are below:

Retirement plans. 26 percent of respondents stated that they are planning to retire during the next five years (within one year - 4 percent; between one and three years - 11 percent; between three and five years - 11 percent).

▪ **What succession planning is underway or has been accomplished at OPM to prepare for these workforce changes?**

OPM has developed and implemented an agencywide Leadership Succession Plan that covers all supervisory, managerial and executive positions in the agency. Individual Succession Planning Position Profiles are completed to identify information about the incumbent, competency requirements for the position, turnover assessment, assessments of available internal and external candidates and the overall risk rating for the position. For positions designated as "high risk", action plans are developed to mitigate succession risks.

We have also administered an agencywide competency assessment to identify core competency requirements and the extent to which gaps exist. These analyses are then used to inform gap closure plans to ensure the workforce has the skills it needs to meet current and future requirements. OPM has documented and catalogued knowledge management techniques and approaches currently being utilized throughout the agency to establish a core framework upon which the agency can build and expand knowledge management efforts, and we have developed and implemented an internal rotational/professional development program for employees at the GS-5 through 14 grade levels to promote cross-organizational development and enhancement of core skills.

Recruitment. Survey question 14 queried views on the statement, "My work unit is able to recruit people with the right skills." Half of the respondents, 50.5 percent, neither agreed or disagreed (29.1 percent), disagreed (10.9 percent), strongly disagreed (5.4 percent), or didn't know (5.1 percent) with this statement.

▪ **What mechanisms are in place or planned (in view of the survey results) to encourage OPM employees to be actively engaged in discussions of their work unit's recruitment needs and to receive continuous feedback from employees on the accomplishments of recruitment?**

The agency implemented a comprehensive supervisory training curriculum to ensure all OPM managers and supervisors are equipped with the necessary tools to carry out their human capital responsibilities—including recruitment and staffing. We have also developed a recruitment contract that is used by Human Resources and hiring managers to more directly engage and involve managers in developing strategies and approaches to attracting qualified candidates to meet their recruitment needs. Finally, OPM continues to communicate with employees to encourage them to express their concerns and share ideas for improvements within their organization.

Resources. Survey question 16 queried views on the statement, "I have sufficient resources (for example, people, materials, budget) to get my

job done.” Almost 40 percent of respondents neither agreed or disagreed (16.9 percent), disagreed (13.8 percent), strongly disagreed (8.1 percent), or didn’t know (0.7 percent) with this statement.

- **How will OPM be following up on these survey results to learn what resources might be needed and to ensure that procedures are in place to permit resource needs to be identified and discussed?**

Starting with the 2009 budget process, OPM instituted a planning process that specifically ties budget requests to agency strategic goals and objectives. Organizational requests are reviewed by the Office of the Chief Financial Officer and discussions are held regarding their needs and priorities. The agency prioritizes how best to utilize its resources and decide funding requirements. Budget levels are monitored closely and resources are allocated as necessary to the highest priority programs.

Training. Survey questions 51 and 60 queried views on the assessment of employee training needs and satisfaction with training received. With regard to the training assessment question, some 47.1 percent of respondents neither agreed or disagreed (23.9 percent), disagreed (13.9 percent), strongly disagreed (6.1 percent), or didn’t know (3.2 percent) with the statement that employee training needs are assessed. As for the satisfaction with training received, 46 percent of respondents are in the neither agreed nor disagreed (24.3 percent), disagreed (14.5 percent), or strongly disagreed (7.2 percent) categories. OPM notes that assessment of training and training satisfaction are areas that show significant overall increases in positive responses, but the negative responses still seem high.

- **What procedures are currently in place to assess the training needs of and to receive feedback on training provided from OPM employees?**

In calendar year 2007, Individual Development Plans (IDPs) were developed for all employees to identify their specific training needs. IDPs focused not only on traditional classroom training, but also other lower cost opportunities such as “brown” bag lunch sessions, online training, and rotations/detail assignments to other parts of the organization.

During FY 2005, OPM established an Agency Learning Management System to create an economy of scale in providing electronic access to training opportunities for all employees. Also, OPM implemented an internal rotational professional development program for employees at GS-5 through GS-14 in FY 2007. In FY 2007, we conducted an agencywide competency assessment of all

mission critical occupations to identify competency gaps and created and implemented action plans to successfully address critical gaps.

Comparing the results of the 2006 and 2007 surveys, we noted the positive response rate increased from 38.6 percent in 2006 to 52.9 percent in 2007. We plan to continue our efforts in this area to assess and provide employees with necessary training to better equip them with the skills needed to carry out their duties. We will focus our efforts on a variety of cost efficient training opportunities that will reach a wide audience.

- **What training initiatives are planned for FY 2009, are the programs targeted for particular positions or available to all employees, and how are employees made aware of available training opportunities, both within and outside the agency?**

During FY 2009, we plan to continue to ensure that the training needs of all of our employees are assessed. Managers and supervisors will continue to be held accountable as part of their performance plans to ensure that the training needs of their employees are identified and effectively addressed. Training budget proposals are collected from each major organizational subcomponent as part of the annual budget process, and once allocation decisions are made, divisions and offices are delegated authority to follow through on identifying appropriate training based on the unique needs of each mission critical occupation, in consultation with Human Resources as needed. In addition, we plan to continue offering a centralized training curriculum to supervisors, managers, and executives, to ensure that certain core training is available to the leadership cadre to ensure they are equipped with the tools necessary to effectively manage the OPM workforce.

Questions for the Record from Mr. Regula

Aging Workforce

OPM has projected that 60% of the Federal government's 1.8 million employees will be eligible to retire in the next 10 years. I understand that OPM works with agencies to develop succession strategies to address this future problem.

▪ To what degree are agencies implementing these succession plans?

Through the President's Management Agenda (PMA) scorecard initiative, OPM has assisted agencies in developing and implementing leadership succession plans that meet criteria established in OPM's Strategic Leadership Succession Management Model. The 5-phase model helps agencies connect succession management to their strategic and operational goals, identify succession targets and analyze their talent pool, develop and implement a succession management plan, and evaluate the results and refine strategies where needed. As a result of OPM's efforts, all of the President's Management Council agencies are now implementing approved succession management programs. OPM continues to assist agencies in meeting their leadership competency and bench-strength targets.

In addition, the following initiatives are underway:

- *Under the Career Patterns initiative, OPM is leading the CHCO Council and agencies in addressing the imminent challenge of hiring the Federal Government's future workforce by identifying and creating environments for both traditional and non-traditional work patterns.*
- *As part of OPM and the Partnership for Public Service's Call to Serve Recruitment Initiative, training sessions are provided to agencies on different topics related to recruitment and the Federal hiring process.*
- *To assist agencies in identifying the best qualified applicants, OPM has developed a website devoted to personnel assessment issues. The website includes an interactive tool which identifies the most appropriate assessment method (e.g., structured interview, assessment center), considering both the competencies needed on the job and the agency's particular hiring situation.*

▪ What are the greatest obstacles agencies are encountering?

While agencies are making significant progress in implementing succession management programs, a few obstacles remain:

- Funding for training and development - *Agencies continue to report they are not able to fund leadership development initiatives designed to support their succession strategies.*
- Retention of leaders, high performers, and high potential employees – *In many cases, agencies compete with each other for leadership talent. For*

this reason, OPM is helping agencies create leadership pipelines that will prepare a wider pool of employees to assume leadership responsibilities in the future.

- *Building leadership capacity - Agencies need to take more time and care in creating and executing individual development plans that continue to build competence among current and potential leaders.*

▪ **What can we on this subcommittee and in Congress do to help OPM address this problem?**

Agencies must have the necessary funding to develop, implement, and sustain their succession management programs and initiatives, particularly those related to leadership development. Congress could provide additional funding to agencies for leadership capacity building and leadership bench-strength retention incentives.

Hiring The Federal Workforce of the Future

It is clear that your agency has invested in a strong leadership development program for existing Federal employees. This focus is critical to succession planning especially as the Federal workforce approaches retirement age. However, hiring the future workforce is equally, or perhaps even more important to improving effectiveness.

▪ **What are you doing to ensure that Federal officials attract and hire the talent necessary for the workforce of the future?**

OPM has been extremely active in ensuring agencies have workforce and succession management plans that support their efforts to align their current and future workforce needs with agency mission and strategy. Through the Human Capital Scorecard, OPM assesses agency workforce planning systems to assure they use rigorous analysis to project and meet future talent needs. We require each agency to identify their mission-critical occupations with yearly staffing targets so we can gauge the effectiveness of their workforce planning systems and strategies for closing staffing and competency gaps. Through our regular interagency forums and training academies, we identify sound practices that agencies can share with each other to build on successes and lessons learned.

In addition, OPM has conceived and implemented the Career Patterns initiative. Career Patterns is a strategic approach to filling mission-critical occupations by attracting skilled and talented applicants at various stages of their careers. By identifying the factors that are most attractive to applicants, agencies can transform their work environments to attract top talent. In addition, agencies are using vacancy notices that emphasize work environment factors such as mission orientation, benefits, location, and alternative work schedules as a way of attracting candidates.

Federal agencies are authorized to use a range of hiring flexibilities to acquire and maintain top talent. OPM continues to provide training and outreach to

agencies so Human Resources professionals and hiring managers are aware of these hiring flexibilities and how they can be integrated into their recruitment strategies.

- **What are you doing to ensure that Federal officials are hiring with an emphasis on leadership skills as opposed to emphasizing technical skills, college degrees, or years of experience within Programs?**

As part of our initiative to close competency gaps in mission-critical occupations, we have encouraged organizations to develop competency models (or to validate existing competency models). In a number of cases, these models combine technical skills and the leadership skills found in OPM's Executive Core Qualifications standard. Agencies use these models as a basis for their recruitment and development programs.

OPM recently revised the Executive Core Qualifications and issued an updated leadership competency model to ensure our leaders have the necessary skills to manage a 21st century workforce and to develop leadership pipelines that position us for future success. The leadership competencies have been incorporated into a new Supervisory Qualification Guide, which emphasizes the importance of leadership, in addition to any technical requirements, for success as a Federal supervisor.

In addition, OPM's requirement that agencies build talent pipelines as part of their leadership succession management is driving agencies to recruit and develop employees with the leadership competencies in mind. To support this effort, OPM has made available to agencies the web-based Federal Competency Assessment Tool for Managers (FCAT-M). Agencies can use FCAT-M to assess the leadership competencies of employees at all levels, as a way to guide recruitment and development activities.

- **What are you doing to make the application/recruitment process less onerous and more accessible to the future workforce and future leaders who may currently be working in other sectors (Private, Non-Profit, State, Local)?**

Federal managers have a variety of methods to recruit talent. Although the use of certain special appointing authorities has increased in the past couple of years, the competitive examining process continues to be the primary vehicle to hire new talent to the Federal workforce. The End-to-End Hiring Model described earlier will simplify and eliminate some of the major steps in the current hiring process. This new initiative is intended to reduce the time it takes to bring top talent into the Federal workforce and increase applicant satisfaction with the Federal hiring process. The initiative is designed to integrate and streamline key processes that drive talent acquisition and retention: (1) workforce planning, (2) recruitment, (3) hiring process, (4) suitability/security, and (5) new employee orientation.

In addition, OPM created standardized vacancy announcements for certain occupations to make the application process less burdensome to the applicants. The goal of the standardization is to ensure applicants do not have to go through different processes when they apply for these occupations, making the application process more accessible. We recently issued a streamlined vacancy announcement template for secretary, accountant, and accountant technician positions. This will make it much easier for individuals to apply for multiple positions within these occupations.

In addition to these efforts, OPM encourages the use of hiring flexibilities, including veterans' hiring authorities, excepted service appointments for individuals with disabilities, and student employment authorities and programs. These flexibilities allow agencies to hire more quickly, without sacrificing quality. OPM tracks agencies' use of these flexibilities.

OPM has aggressively marketed Federal job opportunities through an extensive recruitment campaign using television advertisements, an integrated job opportunity website known as USAJOBS, and strategic partnerships with key groups such as the Partnership for Public Service, to conduct outreach to universities for recruitment in mission-critical occupations.

Finally, at the executive level, OPM will soon be piloting at several Federal agencies a more applicant-friendly process for entering the SES. Applicants will be asked only to submit a resume, and will be selected on the basis of the resume and a subsequent interview or interviews. If successful, this method could provide an effective means of attracting top executives who might otherwise be deterred by the Federal hiring process.

- **In October 2006, The Economist magazine ran a cover article called “The Search for Talent” in which they described a modern economy that places an enormous premium on talent. In competing for this talent, the private industry emphasized efficiency in searching for, recruiting and hiring the best candidates. How can we accelerate the Federal application, review, and selection process so that we don’t lose good talent to other sectors?**

The End-to-End Hiring Model discussed above was designed to measure the entire hiring process and reduce the number of days it takes, so agencies do not lose high-quality applicants. One of the areas this model addresses is improved communication between the agency and the applicant in all the steps of the hiring process. This model will also improve timeliness from the perspective of the selecting official. The standardization of vacancy announcements and application process will also reduce the number of days it takes to hire talent.

It should also be noted that, in advance of these efforts, the Federal Government had made significant strides in accelerating the hiring process. Using our 45-day hiring model as a guide, agencies have been able to cut the average time to hire

in non-executive positions to 30-33 days, with approximately 79 percent of all positions being filled within 45 days. We will continue to improve, but these results reflect significant progress.

OPM and the Chief Human Capital Officers Council have implemented a Management Satisfaction Survey, which helps agencies identify deficiencies in their hiring processes. Based on survey results and other information, agencies develop improvement plans to address these deficiencies. Agencies provide results of these initiatives to OPM through our ongoing assessment of progress in Human Capital Assessment & Accountability Framework implementation.

OPM has also made headway in educating agencies on the availability and use of hiring flexibilities, and we will continue our efforts to (1) train agency Human Resources staff and hiring managers on these flexibilities, (2) promote the use of our Federal Hiring Flexibilities Resource Center and the Hiring Toolkit websites, and (3) consult with agencies on how best to use the flexibilities in building effective recruitment strategies. In addition, we recently incorporated video vignettes on various hiring flexibilities on our website to increase the reach of our training on hiring flexibilities.

We should note that, as in the private sector, the emphasis needs to be on hiring the best candidates, and we need to balance efficiency with quality.

Leadership Training

OPM provides Governmentwide leadership training through programs such as the Center for Leadership Capacity.

- **How many employees receive leadership training through these programs each year?**

OPM offers public service management and leadership development designed for rising leaders in the Federal workforce. Those aspiring to executive levels journey through Individual Assessment and Development, and Management and Supervisory Skills seminars and programs in an open enrollment format that allows each individual to choose the right training at the right time. Additionally OPM develops leadership and management programs both as Governmentwide programs and as programs tailored to agency needs using targeted leadership program series and individual seminars, or through one-on-one forums. In FY 2007 approximately 14,064 Government employees participated in OPM leadership training and development program.

- **Will the Federal government have enough employees prepared for leadership positions when the baby-boomers retire?**

OPM developed the Strategic Leadership Succession Management Model. The 5-Phase Model helps agencies connect succession management to their strategic and operational goals, identify succession targets and analyze their talent pool,

develop and implement a succession management plan, and evaluate the results in order to refine strategies where needed. As a result of OPM's assistance, all of the President's Management Council (PMC) agencies are implementing approved succession management programs.

In addition, OPM requires agencies to report on their bench strength - defined as talent positioned to take on more responsibility. Each year agencies establish bench strength targets relative to their workforce planning attrition rates and succession management strategies. Agencies develop leadership development programs and initiatives to meet their specific mission requirements and goals. The requirement to report on bench strength targets and results extends beyond the scorecard and is a metric for the Systems, Standards, and Metrics and will be reported in an agency's Human Capital Management Report. Under the PMA and scoring umbrella, an agency can lose a checkmark and status if they fail to set and meet their bench strength targets.

FEHB Costs

OPM manages the Federal Employees Health Benefits Program. While health care costs across the country have dramatically increased, OPM has been able to hold Federal employee health insurance costs to about a 2 percent increase in 2007 and 2008.

▪ How have you been able to control Federal employee health insurance costs and can you continue to do so in the future?

The Federal Employees Health Benefits (FEHB) Program is a competitive model with a variety of health plan options from which Federal employees and retirees can select to meet their unique health care needs. FEHB carriers compete to attract enrollees by offering affordable health options. We attribute the low premium increases to this market competition. As an example, recent efforts OPM has made to promote market-based competition include encouraging carriers to offer lower-cost options and options that include consumer-driven plans with health savings accounts.

OPM has also allowed carriers to use excess reserves to mitigate rate increases. Excess reserves are created when carriers have better than expected claims experience. This feature of the program allows OPM and carriers to ensure that there is an appropriate balance between the reserves set aside to pay future claims and the premiums charged to enrollees each year. OPM's actuarial staff continuously reviews the financial reserve status of participating carriers in anticipation of annual rate negotiations. As we have done in past years, we allowed carriers to draw down on these reserves for the 2007 and 2008 contract terms to partially offset the premium increases which otherwise would have been needed. We will continue to conduct tough rate negotiations in the future so that we are able to continue offering health plan choices with affordable premiums.

Last, we will continue to encourage FEHB carriers to explore measures that are responsive to the needs of enrollees, add value to their healthcare coverage and

ultimately assist in mitigating increases in healthcare costs. By continuing to focus carriers' attention on benefits for preventive care and on the management of benefits for chronically ill patients, we are addressing the needs of enrollees at both ends of the patient spectrum. We believe this approach will ultimately assist carriers in mitigating their benefit costs.

Qualified Information Technology Staff

The Federal budget includes \$71 billion for information technology. Information technology is an integral tool for almost all the Federal government's activities. Yet, historically the Federal government continues to have difficulty developing new complex information technology projects such as IRS's Business System Modernization program, the FBI's failed case management system, the National Archives' Electronic Records Archive, and the Census Bureau's failures to develop a handheld computer device for enumerators to use for the 2010 census.

▪ What are you doing to help agencies attract and retain professional IT staff?

OPM, in partnership with the Federal Chief Information Officers Council, designed, developed, and implemented an assessment focused on the information technology (IT) workforce. The IT Workforce Capability Assessment Survey was administered to Federal employees in IT occupations in 2003, 2004, and 2006. The assessment allowed agencies to determine where high-risk competency gaps were in their IT workforce and then develop plans to address those identified gaps. OPM required agencies to set competency gap closure targets based on the assessment results, develop and implement improvement plans, and report on the results. Agencies have made great strides in reducing competency gaps for IT positions through hiring, training, mentoring, certification, and other initiatives.

We also host Federal Career Days which are targeted recruitment and educational sessions held at universities and colleges across the country, including Duquesne University, the Ohio State University, Louisiana State University, and the University of New Mexico. The events provide forums for Federal agency representatives to introduce students to exciting Federal careers and build long-term recruiting relationships with the participating schools.

Schools are chosen primarily because of their strong curricula in the areas of information technology, engineering, national security and criminal justice, business and accounting, science and environment, medicine and public health, and/or foreign languages. We are planning several additional Federal Career Days this year and are involving our Federal Executive Boards and Federal Executives Association in marketing these events to maximize attendance.

In addition, agencies have a number of compensation tools they can use to attract and retain employees in information technology management and other occupations for which they are experiencing staffing problems. These tools include recruitment, relocation, and retention incentives; student loan

repayments; and special rates. Information on these tools, including fact sheets and Qs and As, are available on OPM's website. In addition, OPM provides updates and guidance to agencies on these compensation flexibilities through periodic interagency forums. For example, OPM conducted an interagency forum on recruitment, relocation, and retention incentives on March 11, 2008.

Also, OPM is revising the qualification requirements for the Information Technology Management Series, 2210. The overall goal is to provide an easy-to-understand, common language for Governmentwide use without losing the flexibility to accommodate the varying and highly specific technical requirements of these positions. Finally, OPM is also working with the Chief Information Officers Council to define Enterprise Architecture positions, an emerging critical need for the Federal IT community.

▪ **Do agencies need special pay authorities to attract specialists in information technology, project and contract management?**

As mentioned above, agencies currently have a variety of pay flexibilities they can and do use to attract specialists in information technology and project and contract management. For example, OPM has approved higher special rates of pay under six different special rate schedules for entry-level IT management specialists worldwide. If new or higher special rates are needed to help recruit or retain information technology management or other specialists, an agency may ask OPM to do so at any time, and OPM will coordinate with other affected agencies, as appropriate.

Also, agencies may use recruitment, relocation, and retention incentives to address staffing issues. For example, in OPM's Recruitment, Relocation, and Retention Incentives Calendar Year 2006 Report to Congress, agencies reported paying 72 recruitment incentives, 32 relocation incentives, and 864 retention incentives to IT management specialists and 31 recruitment incentives, 58 relocation incentives, and 255 retention incentives to contracting specialists. Additionally, 199 IT management specialists and 130 contracting specialists received student loan repayments in Fiscal Year 2006. Information on the use of these pay flexibilities in 2007 will be available later this year.

President's Management Scorecard

In your testimony you mention that 17 of 26 agencies reporting under the President's Management Agenda Scorecard have met the standards set forth by the Scorecard.

▪ **Could you please elaborate on the President's Management Agenda Scorecard and how the methodology by which you assess the agencies participating in the program?**

Since the inception of the President's Management Agenda (PMA), OPM has led the human capital initiative of the PMA. Drawing on the Human Capital

Standards for Success (developed in consultation with OMB and GAO), OPM designed the Human Capital Assessment & Accountability Framework (HCAAF) to measure each agency's ability to maintain a robust workforce.

To drive Governmentwide institutionalization of the HCAAF, OPM sets annual standards for agencies to achieve. These standards are based on OPM analysis of a range of data related to current and projected needs in Federal human capital management. Through our Human Capital Officers, we engage with individual agencies to create plans for meeting these standards. These plans include quarterly deliverables and milestones that OPM reviews to assess agency progress toward meeting the standards. Currently, OPM is validating existing elements on the scorecard to ensure agencies have fully institutionalized the standards and have incorporated a new strategy for human capital management in the 21st century.

OPM is currently developing expectations for the upcoming transition year. These expectations will build upon the progress made over the last six years and set standards for agencies' progress in strategic human capital management. OPM will continue to hold agencies accountable for measurable results in human capital.

[illegible]

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Reference ID	CDV File	Effective Date	Estimate Completed	Reason Not Completed	Contract Name	Ultimate Contract Value
GPMP-0407000052		01/11/2008	COMPETITIVE DELIVERY ORDER	ONLY ONE SOURCE - OTHER	1 NETWORK SECURITY SYSTEMS PLUS	\$21,346
GPMP-0407000053		01/11/2008	COMPETITIVE DELIVERY ORDER	ONLY ONE SOURCE - OTHER	1 NETWORK SECURITY SYSTEMS PLUS	\$21,346
GPMP-0407000054		02/19/2008	FULL AND OPEN COMPETITION	UTILITIES PAR 41.2	1 CREDIT ADVISORY	\$358,175
GPMP-0407000055		02/28/2008	NOT COMPETED	UNIQUE SOURCE	2 MYTHICS INCORPORATED	\$30,000
GPMP-0407000056		03/10/2008	FULL AND OPEN COMPETITION AFT	ONLY ONE SOURCE - OTHER	1 UNITED STATES POSTAL SERVICE	\$199,880
GPMP-0407000057		03/10/2008	FULL AND OPEN COMPETITION AFT	ONLY ONE SOURCE - OTHER	1 SHER ASSOCIATES	\$199,880
GPMP-0407000058		03/10/2008	NOT COMPETED	UTILITIES PAR A1.2	1 CREDIT ADVISORY	\$65,529
GPMP-0407000059		03/10/2008	NOT COMPETED	UNIQUE SOURCE	1 CORECOMPETENCIES	\$100,000
GPMP-0407000060		12/21/2006	COMPETITIVE DELIVERY ORDER	ONLY ONE SOURCE - OTHER	1 FEDERAL EXPRESS CORPORATION	\$120,000
GPMP-0407000061		04/09/2007	FULL AND OPEN COMPETITION AFT	ONLY ONE SOURCE - OTHER	1 SHER ASSOCIATES	\$120,000
GPMP-0407000062		04/19/2007	COMPETITIVE DELIVERY ORDER	ONLY ONE SOURCE - OTHER	1 NATIONAL COMMITTEE FOR QUALITY ASSURANCE	\$86,400
GPMP-0407000063		05/18/2007	COMPETED UNDER SAT	ONLY ONE SOURCE - OTHER	4 WORLDWIDE TECHNOLOGY	\$54,604
GPMP-0407000064		12/05/2007	NOT COMPETED	FOLLOW ON CONTRACT	3 OMNI HOTELS CORPORATION	\$54,172
GPMP-0407000065		12/05/2007	NOT COMPETED	FOLLOW ON CONTRACT	1 HANSON PROTECTIVE SERVICES	\$149,000
GPMP-0407000066		12/05/2007	NOT COMPETED	FOLLOW ON CONTRACT	1 INFOSMEXX INCORPORATED	\$120,000
GPMP-0407000067		12/05/2007	NOT COMPETED	FOLLOW ON CONTRACT	5 ANAHEIM HOTEL LIMITED LIABILITY COMPANY	\$120,000
GPMP-0407000068		12/05/2007	NOT COMPETED	FOLLOW ON CONTRACT	1 L3 COMMUNICATIONS TITAN CORPORATION (8754)	\$165,400
GPMP-0407000069		10/19/2006	NOT COMPETED	ONLY ONE SOURCE - OTHER	1 CREDIT ADVISORY	\$53,976
GPMP-0407000070		10/19/2006	NOT COMPETED	ONLY ONE SOURCE - OTHER	1 TALK CORPORATION	\$50,000
GPMP-0407000071		10/23/2006	NOT COMPETED	ONLY ONE SOURCE - OTHER	1 STATE HEALTH SERVICES TEXAS DEPARTMENT OF	\$100,000
GPMP-0407000072		10/23/2006	NOT COMPETED	ONLY ONE SOURCE - OTHER	12 DELL MARKETING LIMITED PARTNERSHIP	\$100,000
GPMP-0407000073		10/23/2006	NOT COMPETED	ONLY ONE SOURCE - OTHER	1 UNITED STATES POSTAL SERVICE (0000) 1459801	\$15,000
GPMP-0407000074		10/23/2006	NOT COMPETED	ONLY ONE SOURCE - OTHER	1 UNITED STATES POSTAL SERVICE (0000) 1459801	\$15,000
GPMP-0407000075		10/23/2006	NOT COMPETED	ONLY ONE SOURCE - OTHER	1 NATIONAL STUDENT CLEANHOUSE INCORPORATED	\$35,000
GPMP-0407000076		11/01/2006	COMPETED UNDER SAT	ONLY ONE SOURCE - OTHER	4 WESTWOOD COMPUTER CORPORATION	\$91,605
GPMP-0407000077		10/01/2006	NOT COMPETED	UNIQUE SOURCE	1 MAINTENANCE COUNTY	\$70,000
GPMP-0407000078		10/01/2006	NOT COMPETED	UNIQUE SOURCE	1 HASLER INCORPORATED	\$70,000
GPMP-0407000079		11/01/2006	NOT COMPETED	ONLY ONE SOURCE - OTHER	1 HASLER INCORPORATED	\$70,000
GPMP-0407000080		11/01/2006	NOT COMPETED	ONLY ONE SOURCE - OTHER	1 DCE NORTH AMERICA INCORPORATED	\$75,478
GPMP-0407000081		10/01/2006	NOT COMPETED	ONLY ONE SOURCE - OTHER	1 JUSTICE CALIFORNIA DEPT OF	\$70,000
GPMP-0407000082		10/01/2006	NOT COMPETED	ONLY ONE SOURCE - OTHER	1 UNITED STATES POSTAL SERVICE (0000) 1459801	\$100,000
GPMP-0407000083		11/27/2006	NOT COMPETED	ONLY ONE SOURCE - OTHER	1 HASLER INCORPORATED	\$100,000
GPMP-0407000084		10/01/2006	NOT COMPETED	ONLY ONE SOURCE - OTHER	1 COMPUTER SCIENCES CORPORATION (3129)	\$75,000
GPMP-0407000085		10/01/2006	NOT COMPETED	ONLY ONE SOURCE - OTHER	1 CREDIT ADVISORY	\$75,000
GPMP-0407000086		10/01/2006	NOT COMPETED	ONLY ONE SOURCE - OTHER	1 CELCO PARTNERSHIP DBA VERIZON WIRELESS	\$510,195
GPMP-0407000087		12/01/2006	NOT COMPETED	ONLY ONE SOURCE - OTHER	1 HASLER INCORPORATED	\$539,020
GPMP-0407000088		12/11/2006	NOT COMPETED	ONLY ONE SOURCE - OTHER	1 FEDERAL EXPRESS CORPORATION	\$95,000
GPMP-0407000089		12/11/2006	NOT COMPETED	ONLY ONE SOURCE - OTHER	1 HASLER INCORPORATED	\$95,000
GPMP-0407000090		12/11/2006	NOT COMPETED	ONLY ONE SOURCE - OTHER	1 HASLER INCORPORATED	\$100,000
GPMP-0407000091		12/15/2006	NOT COMPETED	ONLY ONE SOURCE - OTHER	3 UNITED PARCEL SERVICE INCORPORATED (CH) (7381)	\$60,000
GPMP-0407000092		10/01/2006	FULL AND OPEN COMPETITION	ONLY ONE SOURCE - OTHER	1 FEDERAL EXPRESS CORPORATION (7007)	\$100,000
GPMP-0407000093		01/02/2007	NOT COMPETED	ONLY ONE SOURCE - OTHER	1 UNITED STATES POSTAL SERVICE	\$100,000
GPMP-0407000094		01/02/2007	NOT COMPETED	ONLY ONE SOURCE - OTHER	1 UNITED STATES POSTAL SERVICE	\$100,000
GPMP-0407000095		01/09/2007	NOT COMPETED	ONLY ONE SOURCE - OTHER	1 HASLER INCORPORATED	\$100,000
GPMP-0407000096		01/09/2007	NOT COMPETED	ONLY ONE SOURCE - OTHER	1 HASLER INCORPORATED	\$100,000
GPMP-0407000097		01/17/2007	NOT COMPETED	ONLY ONE SOURCE - OTHER	1 DTRS ST FRANCIS LIMITED LIABILITY COMPANY	\$125,000
GPMP-0407000098		09/25/2007	NOT COMPETED	ONLY ONE SOURCE - OTHER	1 UNITED STATES POSTAL SERVICE	\$100,000
GPMP-0407000099		02/16/2007	NOT COMPETED	ONLY ONE SOURCE - OTHER	1 CELCO PARTNERSHIP (3889)	\$54,988
GPMP-0407000100		02/09/2007	NOT COMPETED	ONLY ONE SOURCE - OTHER	1 HASLER INCORPORATED	\$100,000
GPMP-0407000101		02/12/2007	NOT COMPETED	ONLY ONE SOURCE - OTHER	1 HASLER INCORPORATED	\$100,000
GPMP-0407000102		07/01/2007	NOT COMPETED	ONLY ONE SOURCE - OTHER	1 UNITED STATES POSTAL SERVICE	\$100,000
GPMP-0407000103		03/08/2007	NOT COMPETED	ONLY ONE SOURCE - OTHER	1 SAN DIEGO COUNTY OF (0634) 1518308	\$423,355
GPMP-0407000104		04/23/2007	NOT COMPETED	ONLY ONE SOURCE - OTHER	1 HASLER INCORPORATED	\$100,000
GPMP-0407000105		10/01/2006	NOT COMPETED	ONLY ONE SOURCE - OTHER	1 NATIONAL LAW ENFORCEMENT TELECOMMUNICATION SYST	\$309,744
GPMP-0407000106		03/09/2007	NOT COMPETED	ONLY ONE SOURCE - OTHER	1 RADISSON OLIMPIUS CAPITAL PARTNERS LIMITED LIABILITY	\$61,358
GPMP-0407000107		03/09/2007	NOT COMPETED	ONLY ONE SOURCE - OTHER	1 UNITED PARCEL SERVICE INCORPORATED (CH) (7381)	\$99,995
GPMP-0407000108		03/09/2007	NOT COMPETED	ONLY ONE SOURCE - OTHER	1 HASLER INCORPORATED	\$100,000
GPMP-0407000109		03/09/2007	NOT COMPETED	ONLY ONE SOURCE - OTHER	1 HASLER INCORPORATED	\$100,000
GPMP-0407000110		03/09/2007	NOT COMPETED	ONLY ONE SOURCE - OTHER	1 FEDERAL PRISON INDUSTRIES INCORPORATED (5705) 15319	\$129,877
GPMP-0407000111		03/16/2007	NOT AVAILABLE FOR COMPETITION	UNIQUE SOURCE	1 FEDERAL EXPRESS CHARTER PROGRAM TEAM ARRANGEME	\$97,552
GPMP-0407000112		10/01/2006	NOT COMPETED	ONLY ONE SOURCE - OTHER	1 SPRINT NEXTEL LIMITED PARTNERSHIP	\$100,000
GPMP-0407000113		02/02/2007	NOT COMPETED	ONLY ONE SOURCE - OTHER	1 UNITED STATES POSTAL SERVICE	\$100,000

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Reference ID	PID	Effective Date	Exempt Completed	Reason Not Completed	Contract Name	Ultimate Contract Value
CPM105000020	CPMT00107000154	07/17/2007			1 SKILLSOFT CORPORATION (8115)	\$425,008
CPM105000020	CPMT00107000155	07/17/2007			1 SKILLSOFT CORPORATION (8115)	\$50,000
CPM105000020	CPMT00107000164	07/25/2007			7 PLATEAU SYSTEMS LIMITED	\$70,062
CPM105000020	CPMT00107000170	08/14/2007			7 VERTEX SOLUTIONS INCORPORATED	\$70,062
CPM105000020	CPMT00107000171	08/14/2007			7 VERTEX SOLUTIONS INCORPORATED	\$53,825
CPM105000020	CPMT00107000175	08/14/2007			7 VERTEX SOLUTIONS INCORPORATED	\$75,000
CPM105000020	CPMT00107000177	08/14/2007			7 VERTEX SOLUTIONS INCORPORATED	\$81,310
CPM105000020	CPMT00107000178	08/14/2007			7 VERTEX SOLUTIONS INCORPORATED	\$90,740
CPM105000020	CPMT00107000188	08/14/2007			7 VERTEX SOLUTIONS INCORPORATED	\$102,000
CPM105000020	CPMT00107000191	08/14/2007			7 VERTEX SOLUTIONS INCORPORATED	\$305,784
CPM105000020	CPMT00107000194	08/14/2007			7 VERTEX SOLUTIONS INCORPORATED	\$58,345
CPM105000020	CPMT00107000195	08/14/2007			7 VERTEX SOLUTIONS INCORPORATED	\$50,332
CPM105000020	CPMT00107000196	08/14/2007			7 VERTEX SOLUTIONS INCORPORATED	\$50,332
CPM105000020	CPMT00107000197	08/14/2007			7 VERTEX SOLUTIONS INCORPORATED	\$131,851
CPM105000020	CPMT00107000198	08/14/2007			7 VERTEX SOLUTIONS INCORPORATED	\$11,944,429
CPM105000020	CPMT00107000199	08/14/2007			7 VERTEX SOLUTIONS INCORPORATED	\$175,000
CPM105000020	CPMT00107000200	08/14/2007			7 VERTEX SOLUTIONS INCORPORATED	\$1,011,526
CPM105000020	CPMT00107000201	08/14/2007			7 VERTEX SOLUTIONS INCORPORATED	\$665,504
CPM105000020	CPMT00107000202	08/14/2007			7 VERTEX SOLUTIONS INCORPORATED	\$169,516
CPM105000020	CPMT00107000203	08/14/2007			7 VERTEX SOLUTIONS INCORPORATED	\$173,040
CPM105000020	CPMT00107000204	08/14/2007			7 VERTEX SOLUTIONS INCORPORATED	\$1,011,526
CPM105000020	CPMT00107000205	08/14/2007			7 VERTEX SOLUTIONS INCORPORATED	\$81,141
CPM105000020	CPMT00107000206	08/14/2007			7 VERTEX SOLUTIONS INCORPORATED	\$248,031
CPM105000020	CPMT00107000207	08/14/2007			7 VERTEX SOLUTIONS INCORPORATED	\$84,170
CPM105000020	CPMT00107000208	08/14/2007			7 VERTEX SOLUTIONS INCORPORATED	\$314,189
CPM105000020	CPMT00107000209	08/14/2007			7 VERTEX SOLUTIONS INCORPORATED	\$175,890
CPM105000020	CPMT00107000210	08/14/2007			7 VERTEX SOLUTIONS INCORPORATED	\$138,974
CPM105000020	CPMT00107000211	08/14/2007			7 VERTEX SOLUTIONS INCORPORATED	\$138,974
CPM105000020	CPMT00107000212	08/14/2007			7 VERTEX SOLUTIONS INCORPORATED	\$220,650
CPM105000020	CPMT00107000213	08/14/2007			7 VERTEX SOLUTIONS INCORPORATED	\$162,709
CPM105000020	CPMT00107000214	08/14/2007			7 VERTEX SOLUTIONS INCORPORATED	\$142,000
CPM105000020	CPMT00107000215	08/14/2007			7 VERTEX SOLUTIONS INCORPORATED	\$142,000
CPM105000020	CPMT00107000216	08/14/2007			7 VERTEX SOLUTIONS INCORPORATED	\$1,375,000
CPM105000020	CPMT00107000217	08/14/2007			7 VERTEX SOLUTIONS INCORPORATED	\$66,721
CPM105000020	CPMT00107000218	08/14/2007			7 VERTEX SOLUTIONS INCORPORATED	\$177,000
CPM105000020	CPMT00107000219	08/14/2007			7 VERTEX SOLUTIONS INCORPORATED	\$177,000
CPM105000020	CPMT00107000220	08/14/2007			7 VERTEX SOLUTIONS INCORPORATED	\$264,028
CPM105000020	CPMT00107000221	08/14/2007			7 VERTEX SOLUTIONS INCORPORATED	\$62,500
CPM105000020	CPMT00107000222	08/14/2007			7 VERTEX SOLUTIONS INCORPORATED	\$100,800
CPM105000020	CPMT00107000223	08/14/2007			7 VERTEX SOLUTIONS INCORPORATED	\$100,800
CPM105000020	CPMT00107000224	08/14/2007			7 VERTEX SOLUTIONS INCORPORATED	\$54,810
CPM105000020	CPMT00107000225	08/14/2007			7 VERTEX SOLUTIONS INCORPORATED	\$75,012
CPM105000020	CPMT00107000226	08/14/2007			7 VERTEX SOLUTIONS INCORPORATED	\$231,000
CPM105000020	CPMT00107000227	08/14/2007			7 VERTEX SOLUTIONS INCORPORATED	\$231,000
CPM105000020	CPMT00107000228	08/14/2007			7 VERTEX SOLUTIONS INCORPORATED	\$55,522
CPM105000020	CPMT00107000229	08/14/2007			7 VERTEX SOLUTIONS INCORPORATED	\$61,304
CPM105000020	CPMT00107000230	08/14/2007			7 VERTEX SOLUTIONS INCORPORATED	\$83,723
CPM105000020	CPMT00107000231	08/14/2007			7 VERTEX SOLUTIONS INCORPORATED	\$123,048
CPM105000020	CPMT00107000232	08/14/2007			7 VERTEX SOLUTIONS INCORPORATED	\$50,501
CPM105000020	CPMT00107000233	08/14/2007			7 VERTEX SOLUTIONS INCORPORATED	\$395,443
CPM105000020	CPMT00107000234	08/14/2007			7 VERTEX SOLUTIONS INCORPORATED	\$244,693
CPM105000020	CPMT00107000235	08/14/2007			7 VERTEX SOLUTIONS INCORPORATED	\$184,117
CPM105000020	CPMT00107000236	08/14/2007			7 VERTEX SOLUTIONS INCORPORATED	\$55,794
CPM105000020	CPMT00107000237	08/14/2007			7 VERTEX SOLUTIONS INCORPORATED	\$66,132
CPM105000020	CPMT00107000238	08/14/2007			7 VERTEX SOLUTIONS INCORPORATED	\$102,000
CPM105000020	CPMT00107000239	08/14/2007			7 VERTEX SOLUTIONS INCORPORATED	\$53,884
CPM105000020	CPMT00107000240	08/14/2007			7 VERTEX SOLUTIONS INCORPORATED	\$72,150
CPM105000020	CPMT00107000241	08/14/2007			7 VERTEX SOLUTIONS INCORPORATED	\$51,418
CPM105000020	CPMT00107000242	08/14/2007			7 VERTEX SOLUTIONS INCORPORATED	\$55,588

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PIID	Referenced IDV PIID	Effective Date	Exempt Completed	Reason Not Completed	# Offers	Contractor Name	Ultimate Contract Value
OPMT0207000283	OPMTMA0101071	10/19/2006	COMPETITIVE DELIVERY ORDER		3	3 INTERNATIONAL INCORPORATED	\$56,031
OPMT0207000284	OPMTMA0101071	10/19/2006	COMPETITIVE DELIVERY ORDER		3	3 INTERNATIONAL INCORPORATED	\$52,698
OPMT0207000293	OPMTMA0101053	10/19/2006	COMPETITIVE DELIVERY ORDER		3	3 HUMAN TECHNOLOGY INCORPORATED	\$60,815
OPMT0207000299	OPMTMA0101071	10/19/2006	COMPETITIVE DELIVERY ORDER		3	3 INTERNATIONAL INCORPORATED	\$77,159
OPMT0207000300	OPMTMA0101071	10/19/2006	COMPETITIVE DELIVERY ORDER		3	3 HUMAN TECHNOLOGY INCORPORATED	\$58,847
OPMT0207000319	OPMTMA0101053	10/19/2006	COMPETITIVE DELIVERY ORDER		3	3 HUMAN TECHNOLOGY INCORPORATED	\$100,357
OPMT0207000320	OPMTMA0101053	10/19/2006	COMPETITIVE DELIVERY ORDER		3	3 HUMAN TECHNOLOGY INCORPORATED	\$34,106
OPMT0207000323	OPMTMA0101053	10/19/2006	COMPETITIVE DELIVERY ORDER		3	3 HUMAN TECHNOLOGY INCORPORATED	\$148,490
OPMT0207000330	OPMTMA0101050	10/24/2006	COMPETITIVE DELIVERY ORDER		3	3 C2 TECHNOLOGIES INCORPORATED	\$57,995
OPMT0207000347	OPMTMA0101051	10/24/2006	COMPETITIVE DELIVERY ORDER		3	3 HUMAN TECHNOLOGY INCORPORATED	\$116,896
OPMT0207000361	OPMTMA0101053	10/29/2006	COMPETITIVE DELIVERY ORDER		3	3 HUMAN TECHNOLOGY INCORPORATED	\$265,180
OPMT0207000365	OPMTMA0101050	10/29/2006	COMPETITIVE DELIVERY ORDER		3	3 BOOZ ALLEN HAMILTON INCORPORATED	\$375,301
OPMT0207000377	OPMTMA0101053	10/31/2006	COMPETITIVE DELIVERY ORDER		3	3 HUMAN RESOURCES RESEARCH ORGANIZATION	\$144,984
OPMT0207000384	OPMTMA0101053	10/31/2006	COMPETITIVE DELIVERY ORDER		3	3 HUMAN TECHNOLOGY INCORPORATED	\$164,106
OPMT0207000386	OPMTMA0101053	10/31/2006	COMPETITIVE DELIVERY ORDER		3	3 HUMAN RESOURCES RESEARCH ORGANIZATION	\$110,749
OPMT0207000387	OPMTMA0101053	10/31/2006	COMPETITIVE DELIVERY ORDER		3	3 HUMAN RESOURCES RESEARCH ORGANIZATION	\$51,090
OPMT0207000392	OPMTMA0101053	10/27/2006	COMPETITIVE DELIVERY ORDER		3	3 BOOZ ALLEN HAMILTON INCORPORATED	\$77,975
OPMT0207000402	OPMTMA0101050	10/30/2006	COMPETITIVE DELIVERY ORDER		3	3 BOOZ ALLEN HAMILTON INCORPORATED	\$165,875
OPMT0207000418	OPMTMA0101051	11/01/2006	COMPETITIVE DELIVERY ORDER		3	3 C2 TECHNOLOGIES INCORPORATED	\$63,379
OPMT0207000420	OPMTMA0101053	11/02/2006	COMPETITIVE DELIVERY ORDER		3	3 HUMAN TECHNOLOGY INCORPORATED	\$63,130
OPMT0207000424	OPMTMA0101071	11/02/2006	COMPETITIVE DELIVERY ORDER		3	3 INTERNATIONAL INCORPORATED	\$57,504
OPMT0207000428	OPMTMA0101071	11/02/2006	COMPETITIVE DELIVERY ORDER		3	3 BOOZ ALLEN HAMILTON INCORPORATED	\$305,190
OPMT0207000446	OPMTMA0101050	11/02/2006	COMPETITIVE DELIVERY ORDER		3	3 BOOZ ALLEN HAMILTON INCORPORATED	\$330,892
OPMT0207000447	OPMTMA0101050	11/02/2006	COMPETITIVE DELIVERY ORDER		3	3 POWERTRAIN INCORPORATED	\$73,901
OPMT0207000467	OPMTMA0101056	11/02/2006	COMPETITIVE DELIVERY ORDER		3	3 POWERTRAIN INCORPORATED	\$73,901
OPMT0207000487	OPMTMA0101056	11/02/2006	COMPETITIVE DELIVERY ORDER		3	3 POWERTRAIN INCORPORATED	\$178,740
OPMT0207000501	OPMTMA0101050	11/07/2006	COMPETITIVE DELIVERY ORDER		3	3 BOOZ ALLEN HAMILTON INCORPORATED	\$180,451
OPMT0207000533	OPMTMA0101052	11/06/2006	COMPETITIVE DELIVERY ORDER		3	3 THE CENTER FOR ORGANIZATIONAL EXCELLENCE	\$58,429
OPMT0207000544	OPMTMA0101054	11/06/2006	COMPETITIVE DELIVERY ORDER		3	3 ANTECH CORPORATION	\$143,657
OPMT0207000550	OPMTMA0101055	11/09/2006	COMPETITIVE DELIVERY ORDER		3	3 PERFORMTECH INCORPORATED	\$148,678
OPMT0207000551	OPMTMA0101062	11/09/2006	COMPETITIVE DELIVERY ORDER		3	3 THE CENTER FOR ORGANIZATIONAL EXCELLENCE	\$133,435
OPMT0207000567	OPMTMA0101062	11/15/2006	COMPETITIVE DELIVERY ORDER		3	3 HUMAN RESOURCES RESEARCH ORGANIZATION	\$127,347
OPMT0207000568	OPMTMA0101063	11/15/2006	COMPETITIVE DELIVERY ORDER		3	3 HUMAN RESOURCES RESEARCH ORGANIZATION	\$55,722
OPMT0207000569	OPMTMA0101063	11/15/2006	COMPETITIVE DELIVERY ORDER		3	3 HUMAN TECHNOLOGY INCORPORATED	\$66,342
OPMT0207000602	OPMTMA0101053	11/19/2006	COMPETITIVE DELIVERY ORDER		3	3 HUMAN TECHNOLOGY INCORPORATED	\$55,321
OPMT0207000603	OPMTMA0101053	11/19/2006	COMPETITIVE DELIVERY ORDER		3	3 HUMAN TECHNOLOGY INCORPORATED	\$184,216
OPMT0207000604	OPMTMA0101054	11/19/2006	COMPETITIVE DELIVERY ORDER		3	3 HUMAN TECHNOLOGY INCORPORATED	\$205,275
OPMT0207000621	OPMTMA0101062	11/19/2006	COMPETITIVE DELIVERY ORDER		3	3 HUMAN TECHNOLOGY INCORPORATED	\$177,975
OPMT0207000606	OPMTMA0101053	11/19/2006	COMPETITIVE DELIVERY ORDER		3	3 HUMAN TECHNOLOGY INCORPORATED	\$71,570
OPMT0207000607	OPMTMA0101053	11/19/2006	COMPETITIVE DELIVERY ORDER		3	3 HUMAN TECHNOLOGY INCORPORATED	\$112,297
OPMT0207000608	OPMTMA0101053	11/19/2006	COMPETITIVE DELIVERY ORDER		3	3 HUMAN TECHNOLOGY INCORPORATED	\$175,386
OPMT0207000609	OPMTMA0101053	11/19/2006	COMPETITIVE DELIVERY ORDER		3	3 HUMAN TECHNOLOGY INCORPORATED	\$182,226
OPMT0207000619	OPMTMA0101059	11/19/2006	COMPETITIVE DELIVERY ORDER		3	3 MARASCO GROUP LIMITED	\$188,203
OPMT0207000621	OPMTMA0101062	11/19/2006	COMPETITIVE DELIVERY ORDER		3	3 THE CENTER FOR ORGANIZATIONAL EXCELLENCE	\$166,639
OPMT0207000627	OPMTMA0101059	11/19/2006	COMPETITIVE DELIVERY ORDER		3	3 HUMAN RESOURCES RESEARCH ORGANIZATION	\$66,996
OPMT0207000635	OPMTMA0101053	11/20/2006	COMPETITIVE DELIVERY ORDER		3	3 INTERNATIONAL INCORPORATED	\$55,671
OPMT0207000639	OPMTMA0101053	11/20/2006	COMPETITIVE DELIVERY ORDER		3	3 HUMAN TECHNOLOGY INCORPORATED	\$144,984
OPMT0207000640	OPMTMA0101059	11/20/2006	COMPETITIVE DELIVERY ORDER		3	3 INTERNATIONAL INCORPORATED	\$55,321
OPMT0207000646	OPMTMA0101059	11/20/2006	COMPETITIVE DELIVERY ORDER		3	3 INTERNATIONAL INCORPORATED	\$55,133
OPMT0207000647	OPMTMA0101056	11/20/2006	COMPETITIVE DELIVERY ORDER		3	3 C2 TECHNOLOGIES INCORPORATED	\$90,135
OPMT0207000653	OPMTMA0101051	11/21/2006	COMPETITIVE DELIVERY ORDER		3	3 C2 TECHNOLOGIES INCORPORATED	\$79,421
OPMT0207000655	OPMTMA0101051	11/21/2006	COMPETITIVE DELIVERY ORDER		3	3 C2 TECHNOLOGIES INCORPORATED	\$148,595
OPMT0207000671	OPMTMA0101056	11/21/2006	COMPETITIVE DELIVERY ORDER		3	3 POWERTRAIN INCORPORATED	\$262,593

Attachment 4

PIID	Effective Date	Extant Contract	Reason Not Completed	Contract Name	Ultimate Contract Value
OPMTA0207001052	12/20/2006	COMPETITIVE DELIVERY ORDER	3	3 INTERNATIONAL INCORPORATED	\$95,997
OPMTA0207001053	12/19/2006	COMPETITIVE DELIVERY ORDER	3	3 INTERNATIONAL INCORPORATED	\$150,103
OPMTA0207001055	12/19/2006	COMPETITIVE DELIVERY ORDER	3	3 INTERNATIONAL INCORPORATED	\$56,997
OPMTA0207001056	12/19/2006	COMPETITIVE DELIVERY ORDER	3	3 INTERNATIONAL INCORPORATED	\$164,105
OPMTA0207001059	12/19/2006	COMPETITIVE DELIVERY ORDER	3	3 INTERNATIONAL INCORPORATED	\$60,329
OPMTA0207001060	12/19/2006	COMPETITIVE DELIVERY ORDER	3	3 INTERNATIONAL INCORPORATED	\$228,199
OPMTA0207001105	12/20/2006	COMPETITIVE DELIVERY ORDER	3	3 INTERNATIONAL INCORPORATED	\$228,286
OPMTA0207001107	12/19/2006	COMPETITIVE DELIVERY ORDER	3	3 INTERNATIONAL INCORPORATED	\$150,103
OPMTA0207001109	12/19/2006	COMPETITIVE DELIVERY ORDER	3	3 INTERNATIONAL INCORPORATED	\$57,821
OPMTA0207001112	12/19/2006	COMPETITIVE DELIVERY ORDER	3	3 INTERNATIONAL INCORPORATED	\$57,821
OPMTA0207001113	12/19/2006	COMPETITIVE DELIVERY ORDER	3	3 INTERNATIONAL INCORPORATED	\$57,821
OPMTA0207001115	12/19/2006	COMPETITIVE DELIVERY ORDER	3	3 INTERNATIONAL INCORPORATED	\$57,821
OPMTA0207001118	12/19/2006	COMPETITIVE DELIVERY ORDER	3	3 INTERNATIONAL INCORPORATED	\$143,272
OPMTA0207001120	12/19/2006	COMPETITIVE DELIVERY ORDER	3	3 INTERNATIONAL INCORPORATED	\$166,839
OPMTA0207001121	12/19/2006	COMPETITIVE DELIVERY ORDER	3	3 INTERNATIONAL INCORPORATED	\$57,821
OPMTA0207001123	12/19/2006	COMPETITIVE DELIVERY ORDER	3	3 INTERNATIONAL INCORPORATED	\$57,821
OPMTA0207001124	12/19/2006	COMPETITIVE DELIVERY ORDER	3	3 INTERNATIONAL INCORPORATED	\$125,088
OPMTA0207001127	12/22/2006	COMPETITIVE DELIVERY ORDER	3	3 INTERNATIONAL INCORPORATED	\$52,800
OPMTA0207001128	12/22/2006	COMPETITIVE DELIVERY ORDER	3	3 INTERNATIONAL INCORPORATED	\$130,187
OPMTA0207001129	12/22/2006	COMPETITIVE DELIVERY ORDER	3	3 INTERNATIONAL INCORPORATED	\$111,517
OPMTA0207001134	12/22/2006	COMPETITIVE DELIVERY ORDER	3	3 INTERNATIONAL INCORPORATED	\$171,235
OPMTA0207001142	12/22/2006	COMPETITIVE DELIVERY ORDER	3	3 INTERNATIONAL INCORPORATED	\$107,884
OPMTA0207001145	12/22/2006	COMPETITIVE DELIVERY ORDER	3	3 INTERNATIONAL INCORPORATED	\$166,271
OPMTA0207001161	12/21/2006	COMPETITIVE DELIVERY ORDER	3	3 INTERNATIONAL INCORPORATED	\$196,271
OPMTA0207001180	12/22/2006	COMPETITIVE DELIVERY ORDER	3	3 INTERNATIONAL INCORPORATED	\$57,057
OPMTA0207001181	12/22/2006	COMPETITIVE DELIVERY ORDER	3	3 INTERNATIONAL INCORPORATED	\$56,123
OPMTA0207001187	12/22/2006	COMPETITIVE DELIVERY ORDER	3	3 INTERNATIONAL INCORPORATED	\$56,123
OPMTA0207001190	12/22/2006	COMPETITIVE DELIVERY ORDER	3	3 INTERNATIONAL INCORPORATED	\$174,050
OPMTA0207001191	12/22/2006	COMPETITIVE DELIVERY ORDER	3	3 INTERNATIONAL INCORPORATED	\$165,247
OPMTA0207001194	12/22/2006	COMPETITIVE DELIVERY ORDER	3	3 INTERNATIONAL INCORPORATED	\$174,541
OPMTA0207001202	12/22/2006	COMPETITIVE DELIVERY ORDER	3	3 INTERNATIONAL INCORPORATED	\$77,042
OPMTA0207001203	12/22/2006	COMPETITIVE DELIVERY ORDER	3	3 INTERNATIONAL INCORPORATED	\$165,223
OPMTA0207001207	12/22/2006	COMPETITIVE DELIVERY ORDER	3	3 INTERNATIONAL INCORPORATED	\$52,800
OPMTA0207001208	12/22/2006	COMPETITIVE DELIVERY ORDER	3	3 INTERNATIONAL INCORPORATED	\$63,400
OPMTA0207001210	12/22/2006	COMPETITIVE DELIVERY ORDER	3	3 INTERNATIONAL INCORPORATED	\$163,324
OPMTA0207001211	12/22/2006	COMPETITIVE DELIVERY ORDER	3	3 INTERNATIONAL INCORPORATED	\$52,800
OPMTA0207001212	12/22/2006	COMPETITIVE DELIVERY ORDER	3	3 INTERNATIONAL INCORPORATED	\$52,800
OPMTA0207001233	12/22/2006	COMPETITIVE DELIVERY ORDER	3	3 INTERNATIONAL INCORPORATED	\$54,010
OPMTA0207001242	12/22/2006	COMPETITIVE DELIVERY ORDER	3	3 INTERNATIONAL INCORPORATED	\$135,656
OPMTA0207001256	12/22/2006	COMPETITIVE DELIVERY ORDER	3	3 INTERNATIONAL INCORPORATED	\$77,265
OPMTA0207001277	12/22/2006	COMPETITIVE DELIVERY ORDER	3	3 INTERNATIONAL INCORPORATED	\$165,264
OPMTA0207001278	12/22/2006	COMPETITIVE DELIVERY ORDER	3	3 INTERNATIONAL INCORPORATED	\$56,365
OPMTA0207001311	12/22/2006	COMPETITIVE DELIVERY ORDER	3	3 INTERNATIONAL INCORPORATED	\$56,365
OPMTA0207001313	12/22/2006	COMPETITIVE DELIVERY ORDER	3	3 INTERNATIONAL INCORPORATED	\$54,510
OPMTA0207001330	12/22/2006	COMPETITIVE DELIVERY ORDER	3	3 INTERNATIONAL INCORPORATED	\$394,820
OPMTA0207001334	12/22/2006	COMPETITIVE DELIVERY ORDER	3	3 INTERNATIONAL INCORPORATED	\$163,324
OPMTA0207001335	12/22/2006	COMPETITIVE DELIVERY ORDER	3	3 INTERNATIONAL INCORPORATED	\$163,324
OPMTA0207001330	12/22/2006	COMPETITIVE DELIVERY ORDER	3	3 INTERNATIONAL INCORPORATED	\$163,324
OPMTA0207001369	12/22/2006	COMPETITIVE DELIVERY ORDER	3	3 INTERNATIONAL INCORPORATED	\$53,315
OPMTA0207001382	12/22/2006	COMPETITIVE DELIVERY ORDER	3	3 INTERNATIONAL INCORPORATED	\$56,247
OPMTA0207001385	12/22/2006	COMPETITIVE DELIVERY ORDER	3	3 INTERNATIONAL INCORPORATED	\$56,967
OPMTA0207001393	12/22/2006	COMPETITIVE DELIVERY ORDER	3	3 INTERNATIONAL INCORPORATED	\$67,456

PID	Reference: IDV Pile	Effective Date	Extant Contract	Reason Not Completed	if Offers	Contractor Name	Ultimate Contract Value
OPMT00207001403	OPMTMA0101059	01/16/2007	COMPETITIVE DELIVERY ORDER		3	MARASCO GROUP LIMITED	\$78,111
OPMT00207001404	OPMTMA0101059	01/16/2007	COMPETITIVE DELIVERY ORDER		3	MARASCO GROUP LIMITED	\$50,426
OPMT00207001437	OPMTMA0101050	01/25/2007	COMPETITIVE DELIVERY ORDER		3	BOOZ ALLEN HAMILTON INCORPORATED (6626)	\$56,406
OPMT00207001439	OPMTMA0101050	01/25/2007	COMPETITIVE DELIVERY ORDER		3	BOOZ ALLEN HAMILTON INCORPORATED (6626)	\$96,471
OPMT00207001440	OPMTMA0101050	01/25/2007	COMPETITIVE DELIVERY ORDER		3	BOOZ ALLEN HAMILTON INCORPORATED (6626)	\$100,716
OPMT00207001441	OPMTMA0101050	01/25/2007	COMPETITIVE DELIVERY ORDER		3	BOOZ ALLEN HAMILTON INCORPORATED (6626)	\$100,716
OPMT00207001450	OPMTMA0101053	01/25/2007	COMPETITIVE DELIVERY ORDER		3	HUMAN RESOURCES RESEARCH ORGANIZATION	\$113,036
OPMT00207001451	OPMTMA0101053	01/25/2007	COMPETITIVE DELIVERY ORDER		3	HUMAN RESOURCES RESEARCH ORGANIZATION	\$154,346
OPMT00207001482	OPMTMA0101051	01/25/2007	COMPETITIVE DELIVERY ORDER		3	C2 TECHNOLOGIES INCORPORATED	\$166,235
OPMT00207001483	OPMTMA0101051	01/25/2007	COMPETITIVE DELIVERY ORDER		3	C2 TECHNOLOGIES INCORPORATED	\$166,235
OPMT00207001484	OPMTMA0101051	01/25/2007	COMPETITIVE DELIVERY ORDER		3	C2 TECHNOLOGIES INCORPORATED	\$17,658
OPMT00207001489	OPMTMA0101054	01/25/2007	COMPETITIVE DELIVERY ORDER		3	ANTCON CORPORATION (4322)	\$61,796
OPMT00207001515	OPMTMA0101055	02/01/2007	COMPETITIVE DELIVERY ORDER		3	PERFORMTECH INCORPORATED	\$217,008
OPMT00207001516	OPMTMA0101055	02/01/2007	COMPETITIVE DELIVERY ORDER		3	PERFORMTECH INCORPORATED	\$217,008
OPMT00207001517	OPMTMA0101055	02/01/2007	COMPETITIVE DELIVERY ORDER		3	PERFORMTECH INCORPORATED	\$108,606
OPMT00207001530	OPMTMA0101063	01/25/2007	COMPETITIVE DELIVERY ORDER		3	HUMAN RESOURCES RESEARCH ORGANIZATION	\$226,292
OPMT00207001539	OPMTMA0101063	01/25/2007	COMPETITIVE DELIVERY ORDER		3	HUMAN RESOURCES RESEARCH ORGANIZATION	\$141,484
OPMT00207001551	OPMTMA0101063	01/25/2007	COMPETITIVE DELIVERY ORDER		3	HUMAN RESOURCES RESEARCH ORGANIZATION	\$141,484
OPMT00207001551	OPMTMA0101063	01/25/2007	COMPETITIVE DELIVERY ORDER		3	HUMAN RESOURCES RESEARCH ORGANIZATION	\$111,087
OPMT00207001553	OPMTMA0101050	01/26/2007	COMPETITIVE DELIVERY ORDER		3	BOOZ ALLEN HAMILTON INCORPORATED (6626)	\$136,187
OPMT00207001554	OPMTMA0101050	01/26/2007	COMPETITIVE DELIVERY ORDER		3	BOOZ ALLEN HAMILTON INCORPORATED (6626)	\$52,890
OPMT00207001558	OPMTMA0101071	01/26/2007	COMPETITIVE DELIVERY ORDER		3	INTERNATIONAL INCORPORATED	\$17,778
OPMT00207001569	OPMTMA0101071	01/26/2007	COMPETITIVE DELIVERY ORDER		3	INTERNATIONAL INCORPORATED	\$142,878
OPMT00207001568	OPMTMA0101071	01/26/2007	COMPETITIVE DELIVERY ORDER		3	INTERNATIONAL INCORPORATED	\$53,583
OPMT00207001579	OPMTMA0101050	01/30/2007	COMPETITIVE DELIVERY ORDER		3	BOOZ ALLEN HAMILTON INCORPORATED (6626)	\$86,425
OPMT00207001587	OPMTMA0101053	02/01/2007	COMPETITIVE DELIVERY ORDER		3	HUMAN TECHNOLOGY INCORPORATED	\$55,224
OPMT00207001588	OPMTMA0101053	02/01/2007	COMPETITIVE DELIVERY ORDER		3	HUMAN TECHNOLOGY INCORPORATED	\$55,224
OPMT00207001610	OPMTMA0101062	01/30/2007	COMPETITIVE DELIVERY ORDER		3	THE CENTER FOR ORGANIZATIONAL EXCELLENCE	\$53,380
OPMT00207001612	OPMTMA0101062	01/30/2007	COMPETITIVE DELIVERY ORDER		3	CUBIC APPLICATIONS INCORPORATED	\$176,680
OPMT00207001614	OPMTMA0101063	01/31/2007	COMPETITIVE DELIVERY ORDER		3	HUMAN TECHNOLOGY INCORPORATED	\$181,184
OPMT00207001645	OPMTMA0101071	02/02/2007	COMPETITIVE DELIVERY ORDER		3	INTERNATIONAL INCORPORATED	\$51,552
OPMT00207001646	OPMTMA0101053	02/01/2007	COMPETITIVE DELIVERY ORDER		3	HUMAN TECHNOLOGY INCORPORATED	\$84,406
OPMT00207001671	OPMTMA0101051	02/02/2007	COMPETITIVE DELIVERY ORDER		3	C2 TECHNOLOGIES INCORPORATED	\$55,962
OPMT00207001677	OPMTMA0101059	02/05/2007	COMPETITIVE DELIVERY ORDER		3	MARASCO GROUP LIMITED	\$55,962
OPMT00207001687	OPMTMA0101051	02/05/2007	COMPETITIVE DELIVERY ORDER		3	C2 TECHNOLOGIES INCORPORATED	\$228,190
OPMT00207001688	OPMTMA0101051	02/05/2007	COMPETITIVE DELIVERY ORDER		3	C2 TECHNOLOGIES INCORPORATED	\$55,962
OPMT00207001691	OPMTMA0101059	02/05/2007	COMPETITIVE DELIVERY ORDER		3	C2 TECHNOLOGIES INCORPORATED	\$117,912
OPMT00207001709	OPMTMA0101059	02/09/2007	COMPETITIVE DELIVERY ORDER		3	INTERNATIONAL INCORPORATED	\$107,686
OPMT00207001708	OPMTMA0101071	02/09/2007	COMPETITIVE DELIVERY ORDER		3	INTERNATIONAL INCORPORATED	\$65,025
OPMT00207001711	OPMTMA0101059	02/09/2007	COMPETITIVE DELIVERY ORDER		3	INTERNATIONAL INCORPORATED	\$65,025
OPMT00207001714	OPMTMA0101059	02/09/2007	COMPETITIVE DELIVERY ORDER		3	INTERNATIONAL INCORPORATED	\$94,070
OPMT00207001715	OPMTMA0101050	02/12/2007	COMPETITIVE DELIVERY ORDER		3	INTERNATIONAL INCORPORATED (7278)	\$65,025
OPMT00207001723	OPMTMA0101050	02/12/2007	COMPETITIVE DELIVERY ORDER		3	INTERNATIONAL INCORPORATED (7278)	\$65,025
OPMT00207001724	OPMTMA0101050	02/12/2007	COMPETITIVE DELIVERY ORDER		3	BOOZ ALLEN HAMILTON INCORPORATED (6626)	\$65,025
OPMT00207001726	OPMTMA0101050	02/12/2007	COMPETITIVE DELIVERY ORDER		3	BOOZ ALLEN HAMILTON INCORPORATED (6626)	\$83,804
OPMT00207001767	OPMTMA0101050	02/09/2007	COMPETITIVE DELIVERY ORDER		3	PERFORMTECH INCORPORATED	\$61,370
OPMT00207001767	OPMTMA0101055	02/09/2007	COMPETITIVE DELIVERY ORDER		3	PERFORMTECH INCORPORATED	\$104,040
OPMT00207001767	OPMTMA0101055	02/09/2007	COMPETITIVE DELIVERY ORDER		3	PERFORMTECH INCORPORATED	\$52,638
OPMT00207001769	OPMTMA0101051	02/13/2007	COMPETITIVE DELIVERY ORDER		3	INTERNATIONAL INCORPORATED	\$93,213
OPMT00207001776	OPMTMA0101051	02/13/2007	COMPETITIVE DELIVERY ORDER		3	INTERNATIONAL INCORPORATED	\$54,054
OPMT00207001791	OPMTMA0101071	02/13/2007	COMPETITIVE DELIVERY ORDER		3	INTERNATIONAL INCORPORATED	\$109,703
OPMT00207001796	OPMTMA0101053	02/13/2007	COMPETITIVE DELIVERY ORDER		3	HUMAN TECHNOLOGY INCORPORATED	\$109,480
OPMT00207001840	OPMTMA0101050	02/19/2007	COMPETITIVE DELIVERY ORDER		3	BOOZ ALLEN HAMILTON INCORPORATED (6626)	\$72,289
OPMT00207001840	OPMTMA0101050	02/19/2007	COMPETITIVE DELIVERY ORDER		3	BOOZ ALLEN HAMILTON INCORPORATED (6626)	\$55,202
OPMT00207001841	OPMTMA0101050	02/19/2007	COMPETITIVE DELIVERY ORDER		3	BOOZ ALLEN HAMILTON INCORPORATED (6626)	\$55,202
OPMT00207001843	OPMTMA0101050	02/19/2007	COMPETITIVE DELIVERY ORDER		3	BOOZ ALLEN HAMILTON INCORPORATED (6626)	\$79,360
OPMT00207001844	OPMTMA0101050	02/19/2007	COMPETITIVE DELIVERY ORDER		3	BOOZ ALLEN HAMILTON INCORPORATED (6626)	\$79,360
OPMT00207001845	OPMTMA0101050	02/19/2007	COMPETITIVE DELIVERY ORDER		3	BOOZ ALLEN HAMILTON INCORPORATED (6626)	\$59,429
OPMT00207001858	OPMTMA0101071	02/20/2007	COMPETITIVE DELIVERY ORDER		3	INTERNATIONAL INCORPORATED	\$59,429

Reference ID	UDV POC	Effective Date	Extent Computed	Reason Not Completed	at Office	Contractor Name	Ultimate Contract Value	
CPMTAA0101867	CPMTAA0101867	02/21/2007	COMPETITIVE DELIVERY ORDER		3	HUMAN TECHNOLOGIES INCORPORATED	\$70,600	
CPMTAA0101868	CPMTAA0101868	02/21/2007	COMPETITIVE DELIVERY ORDER		3	HUMAN TECHNOLOGIES INCORPORATED	\$70,600	
CPMTAA0101869	CPMTAA0101869	02/21/2007	COMPETITIVE DELIVERY ORDER		3	HUMAN TECHNOLOGIES INCORPORATED	\$27,647	
CPMTAA0101869	CPMTAA0101869	02/21/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$27,372
CPMTAA0101870	CPMTAA0101870	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$167,720
CPMTAA0101871	CPMTAA0101871	02/22/2007	COMPETITIVE DELIVERY ORDER		3	MARASCO GROUP LIMITED	\$55,453	
CPMTAA0101872	CPMTAA0101872	02/22/2007	COMPETITIVE DELIVERY ORDER		3	MARASCO GROUP LIMITED	\$55,290	
CPMTAA0101873	CPMTAA0101873	02/22/2007	COMPETITIVE DELIVERY ORDER		3	MARASCO GROUP LIMITED	\$55,290	
CPMTAA0101874	CPMTAA0101874	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	INTERNATIONAL INCORPORATED	\$101,359
CPMTAA0101875	CPMTAA0101875	02/22/2007	COMPETITIVE DELIVERY ORDER		3	BOOZ ALLEN HAMILTON INCORPORATED	\$52,800	
CPMTAA0101876	CPMTAA0101876	02/22/2007	COMPETITIVE DELIVERY ORDER		3	BOOZ ALLEN HAMILTON INCORPORATED	\$52,800	
CPMTAA0101877	CPMTAA0101877	02/22/2007	COMPETITIVE DELIVERY ORDER		3	BOOZ ALLEN HAMILTON INCORPORATED	\$52,800	
CPMTAA0101878	CPMTAA0101878	02/22/2007	COMPETITIVE DELIVERY ORDER		3	THE CENTER FOR ORGANIZATIONAL EXCELLENCE	\$127,556	
CPMTAA0101879	CPMTAA0101879	02/22/2007	COMPETITIVE DELIVERY ORDER		3	THE CENTER FOR ORGANIZATIONAL EXCELLENCE	\$133,388	
CPMTAA0101880	CPMTAA0101880	02/22/2007	COMPETITIVE DELIVERY ORDER		3	POWERTRAIN INCORPORATED	\$55,645	
CPMTAA0101881	CPMTAA0101881	02/22/2007	COMPETITIVE DELIVERY ORDER		3	POWERTRAIN INCORPORATED	\$55,645	
CPMTAA0101882	CPMTAA0101882	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$27,965
CPMTAA0101883	CPMTAA0101883	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$51,862
CPMTAA0101884	CPMTAA0101884	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$51,862
CPMTAA0101885	CPMTAA0101885	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$51,862
CPMTAA0101886	CPMTAA0101886	02/22/2007	COMPETITIVE DELIVERY ORDER		3	PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPOR	\$149,155	
CPMTAA0101887	CPMTAA0101887	02/22/2007	COMPETITIVE DELIVERY ORDER		3	PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPOR	\$149,155	
CPMTAA0101888	CPMTAA0101888	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$177,526
CPMTAA0101889	CPMTAA0101889	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101890	CPMTAA0101890	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101891	CPMTAA0101891	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101892	CPMTAA0101892	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101893	CPMTAA0101893	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101894	CPMTAA0101894	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101895	CPMTAA0101895	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101896	CPMTAA0101896	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101897	CPMTAA0101897	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101898	CPMTAA0101898	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101899	CPMTAA0101899	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101900	CPMTAA0101900	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101901	CPMTAA0101901	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101902	CPMTAA0101902	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101903	CPMTAA0101903	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101904	CPMTAA0101904	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101905	CPMTAA0101905	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101906	CPMTAA0101906	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101907	CPMTAA0101907	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101908	CPMTAA0101908	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101909	CPMTAA0101909	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101910	CPMTAA0101910	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101911	CPMTAA0101911	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101912	CPMTAA0101912	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101913	CPMTAA0101913	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101914	CPMTAA0101914	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101915	CPMTAA0101915	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101916	CPMTAA0101916	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101917	CPMTAA0101917	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101918	CPMTAA0101918	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101919	CPMTAA0101919	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101920	CPMTAA0101920	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101921	CPMTAA0101921	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101922	CPMTAA0101922	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101923	CPMTAA0101923	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101924	CPMTAA0101924	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101925	CPMTAA0101925	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101926	CPMTAA0101926	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101927	CPMTAA0101927	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101928	CPMTAA0101928	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101929	CPMTAA0101929	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101930	CPMTAA0101930	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101931	CPMTAA0101931	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101932	CPMTAA0101932	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101933	CPMTAA0101933	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101934	CPMTAA0101934	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101935	CPMTAA0101935	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101936	CPMTAA0101936	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101937	CPMTAA0101937	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101938	CPMTAA0101938	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101939	CPMTAA0101939	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101940	CPMTAA0101940	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101941	CPMTAA0101941	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101942	CPMTAA0101942	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101943	CPMTAA0101943	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101944	CPMTAA0101944	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101945	CPMTAA0101945	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101946	CPMTAA0101946	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101947	CPMTAA0101947	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101948	CPMTAA0101948	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101949	CPMTAA0101949	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101950	CPMTAA0101950	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101951	CPMTAA0101951	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101952	CPMTAA0101952	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101953	CPMTAA0101953	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101954	CPMTAA0101954	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101955	CPMTAA0101955	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101956	CPMTAA0101956	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101957	CPMTAA0101957	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101958	CPMTAA0101958	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101959	CPMTAA0101959	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101960	CPMTAA0101960	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101961	CPMTAA0101961	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101962	CPMTAA0101962	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101963	CPMTAA0101963	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101964	CPMTAA0101964	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101965	CPMTAA0101965	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101966	CPMTAA0101966	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101967	CPMTAA0101967	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101968	CPMTAA0101968	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101969	CPMTAA0101969	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101970	CPMTAA0101970	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101971	CPMTAA0101971	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101972	CPMTAA0101972	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101973	CPMTAA0101973	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101974	CPMTAA0101974	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101975	CPMTAA0101975	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101976	CPMTAA0101976	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101977	CPMTAA0101977	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101978	CPMTAA0101978	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101979	CPMTAA0101979	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101980	CPMTAA0101980	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101981	CPMTAA0101981	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101982	CPMTAA0101982	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101983	CPMTAA0101983	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101984	CPMTAA0101984	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101985	CPMTAA0101985	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101986	CPMTAA0101986	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101987	CPMTAA0101987	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	\$54,300
CPMTAA0101988	CPMTAA0101988	02/22/2007	COMPETITIVE DELIVERY ORDER		3	3	TECHNOLOGIES INCORPORATED	

Reference No.	Effective Date	Event Completed	Reason Not Completed	Contract Name	Ultimate Contract Value
CPMTAA010071	03/19/2007	COMPETITIVE DELIVERY ORDER		3 SI INTERNATIONAL INCORPORATED	\$35,937
CPMTAA010072	03/19/2007	COMPETITIVE DELIVERY ORDER		3 SI INTERNATIONAL INCORPORATED	\$11,041
CPMTAA010073	03/19/2007	COMPETITIVE DELIVERY ORDER		3 SI INTERNATIONAL INCORPORATED	\$1,041
CPMTAA010074	03/19/2007	COMPETITIVE DELIVERY ORDER		3 SI INTERNATIONAL INCORPORATED	\$313,218
CPMTAA010075	03/19/2007	COMPETITIVE DELIVERY ORDER		3 MARASCO GROUP LIMITED	\$313,218
CPMTAA010076	03/19/2007	COMPETITIVE DELIVERY ORDER		3 ICF CONSULTING GROUP INCORPORATED	\$76,770
CPMTAA010077	03/19/2007	COMPETITIVE DELIVERY ORDER		3 ICF CONSULTING GROUP INCORPORATED	\$76,770
CPMTAA010078	03/19/2007	COMPETITIVE DELIVERY ORDER		3 HUMAN TECHNOLOGY INCORPORATED	\$57,960
CPMTAA010079	03/19/2007	COMPETITIVE DELIVERY ORDER		3 HUMAN TECHNOLOGY INCORPORATED	\$90,435
CPMTAA010080	03/19/2007	COMPETITIVE DELIVERY ORDER		3 SI INTERNATIONAL INCORPORATED	\$50,555
CPMTAA010081	03/19/2007	COMPETITIVE DELIVERY ORDER		3 SI INTERNATIONAL INCORPORATED	\$50,555
CPMTAA010082	03/19/2007	COMPETITIVE DELIVERY ORDER		3 SI INTERNATIONAL INCORPORATED	\$138,716
CPMTAA010083	03/19/2007	COMPETITIVE DELIVERY ORDER		3 BOOZ ALLEN HAMILTON INCORPORATED (B252)	\$77,776
CPMTAA010084	03/19/2007	COMPETITIVE DELIVERY ORDER		3 POWERTRON INCORPORATED (2889)	\$77,776
CPMTAA010085	03/19/2007	COMPETITIVE DELIVERY ORDER		3 HUMAN TECHNOLOGY INCORPORATED	\$55,491
CPMTAA010086	03/19/2007	COMPETITIVE DELIVERY ORDER		3 HUMAN TECHNOLOGY INCORPORATED	\$55,491
CPMTAA010087	03/19/2007	COMPETITIVE DELIVERY ORDER		3 SI INTERNATIONAL INCORPORATED	\$168,552
CPMTAA010088	03/19/2007	COMPETITIVE DELIVERY ORDER		3 BOOZ ALLEN HAMILTON INCORPORATED (B252)	\$152,818
CPMTAA010089	03/19/2007	COMPETITIVE DELIVERY ORDER		3 BOOZ ALLEN HAMILTON INCORPORATED (B252)	\$127,465
CPMTAA010090	03/19/2007	COMPETITIVE DELIVERY ORDER		3 BOOZ ALLEN HAMILTON INCORPORATED (B252)	\$127,465
CPMTAA010091	03/19/2007	COMPETITIVE DELIVERY ORDER		3 BOOZ ALLEN HAMILTON INCORPORATED (B252)	\$127,465
CPMTAA010092	03/19/2007	COMPETITIVE DELIVERY ORDER		3 BOOZ ALLEN HAMILTON INCORPORATED (B252)	\$127,465
CPMTAA010093	03/19/2007	COMPETITIVE DELIVERY ORDER		3 BOOZ ALLEN HAMILTON INCORPORATED (B252)	\$127,465
CPMTAA010094	03/19/2007	COMPETITIVE DELIVERY ORDER		3 BOOZ ALLEN HAMILTON INCORPORATED (B252)	\$127,465
CPMTAA010095	03/19/2007	COMPETITIVE DELIVERY ORDER		3 HUMAN TECHNOLOGY INCORPORATED	\$91,944
CPMTAA010096	03/19/2007	COMPETITIVE DELIVERY ORDER		3 HUMAN TECHNOLOGY INCORPORATED	\$97,961
CPMTAA010097	03/19/2007	COMPETITIVE DELIVERY ORDER		3 MARASCO GROUP LIMITED	\$95,387
CPMTAA010098	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$59,483
CPMTAA010099	03/19/2007	COMPETITIVE DELIVERY ORDER		3 THE CENTER FOR ORGANIZATIONAL EXCELLENCE INCORPORATED	\$141,722
CPMTAA010100	03/19/2007	COMPETITIVE DELIVERY ORDER		3 BOOZ ALLEN HAMILTON INCORPORATED (B252)	\$101,225
CPMTAA010101	03/19/2007	COMPETITIVE DELIVERY ORDER		3 SI INTERNATIONAL INCORPORATED	\$369,517
CPMTAA010102	03/19/2007	COMPETITIVE DELIVERY ORDER		3 SI INTERNATIONAL INCORPORATED	\$369,517
CPMTAA010103	03/19/2007	COMPETITIVE DELIVERY ORDER		3 SI INTERNATIONAL INCORPORATED	\$73,047
CPMTAA010104	03/19/2007	COMPETITIVE DELIVERY ORDER		3 BOOZ ALLEN HAMILTON INCORPORATED (B252)	\$83,424
CPMTAA010105	03/19/2007	COMPETITIVE DELIVERY ORDER		3 HUMAN RESOURCES RESEARCH ORGANIZATION	\$81,965
CPMTAA010106	03/19/2007	COMPETITIVE DELIVERY ORDER		3 HUMAN RESOURCES RESEARCH ORGANIZATION	\$69,555
CPMTAA010107	03/19/2007	COMPETITIVE DELIVERY ORDER		3 BOOZ ALLEN HAMILTON INCORPORATED (B252)	\$133,872
CPMTAA010108	03/19/2007	COMPETITIVE DELIVERY ORDER		3 ANTECON CORPORATION (4322)	\$76,046
CPMTAA010109	03/19/2007	COMPETITIVE DELIVERY ORDER		3 SI INTERNATIONAL INCORPORATED	\$53,184
CPMTAA010110	03/19/2007	COMPETITIVE DELIVERY ORDER		3 SI INTERNATIONAL INCORPORATED	\$79,014
CPMTAA010111	03/19/2007	COMPETITIVE DELIVERY ORDER		3 SI INTERNATIONAL INCORPORATED	\$67,883
CPMTAA010112	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010113	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010114	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010115	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010116	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010117	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010118	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010119	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010120	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010121	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010122	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010123	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010124	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010125	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010126	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010127	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010128	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010129	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010130	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010131	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010132	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010133	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010134	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010135	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010136	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010137	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010138	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010139	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010140	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010141	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010142	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010143	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010144	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010145	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010146	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010147	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010148	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010149	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010150	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010151	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010152	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010153	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010154	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010155	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010156	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010157	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010158	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010159	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010160	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010161	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010162	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010163	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010164	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010165	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010166	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010167	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010168	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010169	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010170	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010171	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010172	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010173	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010174	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010175	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010176	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010177	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010178	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010179	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010180	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010181	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010182	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010183	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010184	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010185	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010186	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010187	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010188	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010189	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010190	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010191	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010192	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010193	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010194	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010195	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010196	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010197	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010198	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010199	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010200	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010201	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010202	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010203	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010204	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010205	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010206	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010207	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010208	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010209	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010210	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010211	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010212	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010213	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010214	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010215	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010216	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010217	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010218	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010219	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010220	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010221	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010222	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010223	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010224	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010225	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010226	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010227	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010228	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010229	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010230	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010231	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010232	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010233	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010234	03/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMANCE TECHNOLOGIES INTERNATIONAL INCORPORATED	\$115,227
CPMTAA010235	03/				

[illegible]

Abstract

File #	Reference ID	Effective Date	Extent Completed	Reason Not Completed	Contractor Name	Ultimate Contract Value
CPMT10027003468	CPMT10027003468	04/19/2007	COMPETITIVE DELIVERY ORDER		3 HUMAN TECHNOLOGY INCORPORATED	\$53,976
CPMT10027003469	CPMT10027003469	04/19/2007	COMPETITIVE DELIVERY ORDER		3 HUMAN TECHNOLOGY INCORPORATED	\$77,640
CPMT10027003470	CPMT10027003470	04/19/2007	COMPETITIVE DELIVERY ORDER		3 C2 TECHNOLOGIES INCORPORATED	\$59,620
CPMT10027003471	CPMT10027003471	04/19/2007	COMPETITIVE DELIVERY ORDER		3 C2 TECHNOLOGIES INCORPORATED	\$75,947
CPMT10027003472	CPMT10027003472	04/19/2007	COMPETITIVE DELIVERY ORDER		3 BOOZ ALLEN HAMILTON INCORPORATED (0626)	\$65,512
CPMT10027003473	CPMT10027003473	04/19/2007	COMPETITIVE DELIVERY ORDER		3 BOOZ ALLEN HAMILTON INCORPORATED (0626)	\$52,423
CPMT10027003474	CPMT10027003474	04/19/2007	COMPETITIVE DELIVERY ORDER		3 BOOZ ALLEN HAMILTON INCORPORATED (0626)	\$197,300
CPMT10027003475	CPMT10027003475	04/19/2007	COMPETITIVE DELIVERY ORDER		3 BOOZ ALLEN HAMILTON INCORPORATED (0626)	\$53,611
CPMT10027003476	CPMT10027003476	04/19/2007	COMPETITIVE DELIVERY ORDER		3 BOOZ ALLEN HAMILTON INCORPORATED (0626)	\$55,202
CPMT10027003477	CPMT10027003477	04/19/2007	COMPETITIVE DELIVERY ORDER		3 BOOZ ALLEN HAMILTON INCORPORATED (0626)	\$55,202
CPMT10027003478	CPMT10027003478	04/19/2007	COMPETITIVE DELIVERY ORDER		3 THE CENTER FOR ORGANIZATIONAL EXCELLENCE INCORPORATED	\$33,583
CPMT10027003479	CPMT10027003479	04/19/2007	COMPETITIVE DELIVERY ORDER		3 THE CENTER FOR ORGANIZATIONAL EXCELLENCE INCORPORATED	\$75,450
CPMT10027003480	CPMT10027003480	04/19/2007	COMPETITIVE DELIVERY ORDER		3 C2 TECHNOLOGIES INCORPORATED	\$228,026
CPMT10027003481	CPMT10027003481	04/19/2007	COMPETITIVE DELIVERY ORDER		3 BOOZ ALLEN HAMILTON INCORPORATED (0626)	\$82,140
CPMT10027003482	CPMT10027003482	04/19/2007	COMPETITIVE DELIVERY ORDER		3 GENERAL DYNAMICS INFORMATION TECHNOLOGY INCORPORATED	\$133,818
CPMT10027003483	CPMT10027003483	04/19/2007	COMPETITIVE DELIVERY ORDER		3 BOOZ ALLEN HAMILTON INCORPORATED (0626)	\$52,824
CPMT10027003484	CPMT10027003484	04/19/2007	COMPETITIVE DELIVERY ORDER		3 BOOZ ALLEN HAMILTON INCORPORATED (0626)	\$51,584
CPMT10027003485	CPMT10027003485	04/19/2007	COMPETITIVE DELIVERY ORDER		3 HUMAN RESOURCES RESEARCH ORGANIZATION	\$77,250
CPMT10027003486	CPMT10027003486	04/19/2007	COMPETITIVE DELIVERY ORDER		3 HUMAN RESOURCES RESEARCH ORGANIZATION	\$136,120
CPMT10027003487	CPMT10027003487	04/19/2007	COMPETITIVE DELIVERY ORDER		3 POWERTRAIN INCORPORATED (0604)	\$86,380
CPMT10027003488	CPMT10027003488	04/19/2007	COMPETITIVE DELIVERY ORDER		3 SRA INTERNATIONAL INCORPORATED	\$52,707
CPMT10027003489	CPMT10027003489	04/19/2007	COMPETITIVE DELIVERY ORDER		3 SRA INTERNATIONAL INCORPORATED	\$101,386
CPMT10027003490	CPMT10027003490	04/19/2007	COMPETITIVE DELIVERY ORDER		3 HUMAN TECHNOLOGY INCORPORATED (0626)	\$74,199
CPMT10027003491	CPMT10027003491	04/19/2007	COMPETITIVE DELIVERY ORDER		3 HUMAN TECHNOLOGY INCORPORATED (0626)	\$51,880
CPMT10027003492	CPMT10027003492	04/19/2007	COMPETITIVE DELIVERY ORDER		3 BOOZ ALLEN HAMILTON INCORPORATED (0626)	\$173,250
CPMT10027003493	CPMT10027003493	04/19/2007	COMPETITIVE DELIVERY ORDER		3 BOOZ ALLEN HAMILTON INCORPORATED (0626)	\$53,573
CPMT10027003494	CPMT10027003494	04/19/2007	COMPETITIVE DELIVERY ORDER		3 ICF CONSULTING GROUP INCORPORATED	\$57,985
CPMT10027003495	CPMT10027003495	04/19/2007	COMPETITIVE DELIVERY ORDER		3 ICF CONSULTING GROUP INCORPORATED	\$55,270
CPMT10027003496	CPMT10027003496	04/19/2007	COMPETITIVE DELIVERY ORDER		3 HUMAN TECHNOLOGY INCORPORATED	\$55,745
CPMT10027003497	CPMT10027003497	04/19/2007	COMPETITIVE DELIVERY ORDER		3 HUMAN TECHNOLOGY INCORPORATED	\$55,745
CPMT10027003498	CPMT10027003498	04/19/2007	COMPETITIVE DELIVERY ORDER		3 HUMAN TECHNOLOGY INCORPORATED	\$54,006
CPMT10027003499	CPMT10027003499	04/19/2007	COMPETITIVE DELIVERY ORDER		3 HUMAN TECHNOLOGY INCORPORATED	\$54,110
CPMT10027003500	CPMT10027003500	04/19/2007	COMPETITIVE DELIVERY ORDER		3 HUMAN RESOURCES RESEARCH ORGANIZATION	\$59,600
CPMT10027003501	CPMT10027003501	04/19/2007	COMPETITIVE DELIVERY ORDER		3 BOOZ ALLEN HAMILTON INCORPORATED (0626)	\$53,026
CPMT10027003502	CPMT10027003502	04/19/2007	COMPETITIVE DELIVERY ORDER		3 POWERTRAIN INCORPORATED (0604)	\$107,891
CPMT10027003503	CPMT10027003503	04/19/2007	COMPETITIVE DELIVERY ORDER		3 C2 TECHNOLOGIES INCORPORATED	\$52,988
CPMT10027003504	CPMT10027003504	04/19/2007	COMPETITIVE DELIVERY ORDER		3 C2 TECHNOLOGIES INCORPORATED	\$53,107
CPMT10027003505	CPMT10027003505	04/19/2007	COMPETITIVE DELIVERY ORDER		3 BOOZ ALLEN HAMILTON INCORPORATED (0626)	\$210,128
CPMT10027003506	CPMT10027003506	04/19/2007	COMPETITIVE DELIVERY ORDER		3 PERFORMTECH INCORPORATED	\$53,307
CPMT10027003507	CPMT10027003507	04/19/2007	COMPETITIVE DELIVERY ORDER		3 BOOZ ALLEN HAMILTON INCORPORATED (0626)	\$55,880
CPMT10027003508	CPMT10027003508	04/19/2007	COMPETITIVE DELIVERY ORDER		3 C2 TECHNOLOGIES INCORPORATED	\$231,824
CPMT10027003509	CPMT10027003509	04/19/2007	COMPETITIVE DELIVERY ORDER		3 HUMAN TECHNOLOGY INCORPORATED	\$144,951
CPMT10027003510	CPMT10027003510	04/19/2007	COMPETITIVE DELIVERY ORDER		3 ICF CONSULTING GROUP INCORPORATED	\$82,655
CPMT10027003511	CPMT10027003511	04/19/2007	COMPETITIVE DELIVERY ORDER		3 BOOZ ALLEN HAMILTON INCORPORATED (0626)	\$54,539
CPMT10027003512	CPMT10027003512	04/19/2007	COMPETITIVE DELIVERY ORDER		3 BOOZ ALLEN HAMILTON INCORPORATED (0626)	\$56,656
CPMT10027003513	CPMT10027003513	04/19/2007	COMPETITIVE DELIVERY ORDER		3 BOOZ ALLEN HAMILTON INCORPORATED (0626)	\$91,849
CPMT10027003514	CPMT10027003514	04/19/2007	COMPETITIVE DELIVERY ORDER		3 BOOZ ALLEN HAMILTON INCORPORATED (0626)	\$75,028
CPMT10027003515	CPMT10027003515	04/19/2007	COMPETITIVE DELIVERY ORDER		3 SRA INTERNATIONAL INCORPORATED (0604)	\$186,586
CPMT10027003516	CPMT10027003516	04/19/2007	COMPETITIVE DELIVERY ORDER		3 BOOZ ALLEN HAMILTON INCORPORATED (0626)	\$74,304

Attachment 4

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PHD	Referenced ID# PHD	Effective Date	Event Completed	Reason Not Completed	if Offers	Contractor Name	Ultimate Contract Value
CPMT 00207005653	CPM020700008	09/04/2007	COMPETITIVE DELIVERY ORDER			3 SI INTERNATIONAL INCORPORATED (7278)	\$51,752
CPMT 00207005654	CPM020700009	09/04/2007	COMPETITIVE DELIVERY ORDER			3 SI INTERNATIONAL INCORPORATED (7278)	\$51,752
CPMT 00207005657	CPM020700030	09/05/2007	COMPETITIVE DELIVERY ORDER			3 ICF CONSULTING GROUP INCORPORATED	\$56,751
CPMT 00207005683	CPM020700031	09/05/2007	COMPETITIVE DELIVERY ORDER			3 SRA INTERNATIONAL INCORPORATED (8804)	\$88,685
CPMT 00207005684	CPM020700038	09/05/2007	COMPETITIVE DELIVERY ORDER			3 SI INTERNATIONAL INCORPORATED (7278)	\$70,030
CPMT 00207005694	CPM020700034	09/04/2007	COMPETITIVE DELIVERY ORDER			3 SI INTERNATIONAL INCORPORATED (7278)	\$66,477
CPMT 00207005628	CPM020700034	09/07/2007	COMPETITIVE DELIVERY ORDER			3 INTERNATIONAL BUSINESS MACHINES CORPORATION	\$288,746
CPMT 00207005693	CPM020700008	09/07/2007	COMPETITIVE DELIVERY ORDER			3 SI INTERNATIONAL INCORPORATED (7278)	\$91,500
CPMT 00207005655	CPM020700005	09/12/2007	COMPETITIVE DELIVERY ORDER			3 PERFORMTECH INCORPORATED	\$90,022
CPMT 00207005679	CPM020700008	09/12/2007	COMPETITIVE DELIVERY ORDER			3 SI INTERNATIONAL INCORPORATED (7278)	\$55,340
CPMT 00207005678	CPM020700031	09/14/2007	COMPETITIVE DELIVERY ORDER			3 SRA INTERNATIONAL INCORPORATED (8804)	\$133,123
CPMT 00207005681	CPM020700031	09/14/2007	COMPETITIVE DELIVERY ORDER			3 SRA INTERNATIONAL INCORPORATED (8804)	\$58,031
CPMT 00207005682	CPM020700031	09/14/2007	COMPETITIVE DELIVERY ORDER			3 SRA INTERNATIONAL INCORPORATED (8804)	\$58,530
CPMT 00207005683	CPM020700031	09/14/2007	COMPETITIVE DELIVERY ORDER			3 SRA INTERNATIONAL INCORPORATED (8804)	\$66,620
CPMT 00207005688	CPM020700034	09/14/2007	COMPETITIVE DELIVERY ORDER			3 SI INTERNATIONAL INCORPORATED (7278)	\$117,035
CPMT 00207005693	CPM020700034	09/14/2007	COMPETITIVE DELIVERY ORDER			3 SI INTERNATIONAL INCORPORATED (7278)	\$94,554
CPMT 00207005675	CPM020700008	09/13/2007	COMPETITIVE DELIVERY ORDER			3 INTERNATIONAL BUSINESS MACHINES CORPORATION	\$60,022
CPMT 00207005705	CPM020700008	09/13/2007	COMPETITIVE DELIVERY ORDER			3 SI INTERNATIONAL INCORPORATED (7278)	\$55,340
CPMT 00207005717	CPM020700009	09/14/2007	COMPETITIVE DELIVERY ORDER			3 ICF CONSULTING GROUP INCORPORATED	\$71,865
CPMT 00207005737	CPM020700029	09/14/2007	COMPETITIVE DELIVERY ORDER			3 THE CENTER FOR ORGANIZATIONAL EXCELLENCE INCORPORATED	\$95,125
CPMT 00207005769	CPM020700033	09/17/2007	COMPETITIVE DELIVERY ORDER			3 ICF CONSULTING GROUP INCORPORATED	\$81,920
CPMT 00207005771	CPM020700033	09/17/2007	COMPETITIVE DELIVERY ORDER			3 ICF CONSULTING GROUP INCORPORATED	\$51,743
CPMT 00207005789	CPM020700032	09/14/2007	COMPETITIVE DELIVERY ORDER			3 C2 TECHNOLOGIES INCORPORATED	\$56,320
CPMT 00207005794	CPM020700032	09/14/2007	COMPETITIVE DELIVERY ORDER			3 C2 TECHNOLOGIES INCORPORATED	\$207,660
CPMT 00207005794	CPM020700032	09/14/2007	COMPETITIVE DELIVERY ORDER			3 C2 TECHNOLOGIES INCORPORATED	\$80,968
CPMT 00207005801	CPM020700034	09/17/2007	COMPETITIVE DELIVERY ORDER			3 INTERNATIONAL BUSINESS MACHINES CORPORATION	\$90,148
CPMT 00207005801	CPM020700034	09/17/2007	COMPETITIVE DELIVERY ORDER			3 INTERNATIONAL BUSINESS MACHINES CORPORATION	\$145,562
CPMT 00207005809	CPM020700034	09/16/2007	COMPETITIVE DELIVERY ORDER			3 HUMAN TECHNOLOGY INCORPORATED	\$55,720
CPMT 00207005811	CPM020700034	09/16/2007	COMPETITIVE DELIVERY ORDER			3 HUMAN TECHNOLOGY INCORPORATED	\$53,720
CPMT 00207005848	CPM020700031	09/16/2007	COMPETITIVE DELIVERY ORDER			3 INTERNATIONAL BUSINESS MACHINES CORPORATION	\$108,422
CPMT 00207005858	CPM020700034	09/16/2007	COMPETITIVE DELIVERY ORDER			3 INTERNATIONAL BUSINESS MACHINES CORPORATION	\$145,562
CPMT 00207005868	CPM020700033	09/16/2007	COMPETITIVE DELIVERY ORDER			3 SRA INTERNATIONAL INCORPORATED (8804)	\$337,812
CPMT 00207005894	CPM020700033	09/16/2007	COMPETITIVE DELIVERY ORDER			3 SRA INTERNATIONAL INCORPORATED (8804)	\$187,689
CPMT 00207005995	CPM020700033	09/24/2007	COMPETITIVE DELIVERY ORDER			3 SI INTERNATIONAL INCORPORATED (7278)	\$101,110
CPMT 00207005921	CPM020700034	09/24/2007	COMPETITIVE DELIVERY ORDER			3 C2 TECHNOLOGIES INCORPORATED	\$50,958
CPMT 00207005924	CPM020700034	09/24/2007	COMPETITIVE DELIVERY ORDER			3 SERCO INCORPORATED	\$65,456
CPMT 00207005928	CPM020700034	09/24/2007	COMPETITIVE DELIVERY ORDER			3 INTERNATIONAL BUSINESS MACHINES CORPORATION	\$98,222
CPMT 00207005977	CPM020700028	09/24/2007	COMPETITIVE DELIVERY ORDER			3 HUMAN TECHNOLOGY INCORPORATED	\$188,585
CPMT 00207005989	CPM020700028	09/24/2007	COMPETITIVE DELIVERY ORDER			3 HUMAN TECHNOLOGY INCORPORATED	\$52,554
CPMT 00207005932	CPM020700002	09/25/2007	COMPETITIVE DELIVERY ORDER			3 HUMAN TECHNOLOGY INCORPORATED	\$51,743
CPMT 00207005944	CPM020700002	09/25/2007	COMPETITIVE DELIVERY ORDER			3 C2 TECHNOLOGIES INCORPORATED	\$138,732
CPMT 00207005942	CPM020700004	09/25/2007	COMPETITIVE DELIVERY ORDER			3 HUMAN TECHNOLOGY INCORPORATED	\$67,613
CPMT 00207005950	CPM020700028	09/24/2007	COMPETITIVE DELIVERY ORDER			3 HUMAN TECHNOLOGY INCORPORATED	\$218,626
CPMT 00207005951	CPM020700028	09/24/2007	COMPETITIVE DELIVERY ORDER			3 HUMAN TECHNOLOGY INCORPORATED	\$235,403
CPMT 00207005953	CPM020700028	09/24/2007	COMPETITIVE DELIVERY ORDER			3 HUMAN TECHNOLOGY INCORPORATED	\$231,678
CPMT 00207005954	CPM020700028	09/24/2007	COMPETITIVE DELIVERY ORDER			3 HUMAN TECHNOLOGY INCORPORATED	\$101,841
CPMT 00207005955	CPM020700028	09/24/2007	COMPETITIVE DELIVERY ORDER			3 HUMAN TECHNOLOGY INCORPORATED	\$235,059
CPMT 00207005959	CPM020700008	09/24/2007	COMPETITIVE DELIVERY ORDER			3 SI INTERNATIONAL INCORPORATED (7278)	\$50,387

Reference#	RDY PID	Effective Date	Extant Contract#	Reason Not Completed	Contract Name	Ultimate Contract Value
CP-M027000565	09/24/2007	COMPETITIVE DELIVERY ORDER	3	HUMAN RESOURCES RESEARCH ORGANIZATION	\$7,700	
CP-M027000566	09/24/2007	COMPETITIVE DELIVERY ORDER	3	HUMAN TECHNOLOGY INCORPORATED	\$19,674	
CP-M027000567	09/24/2007	COMPETITIVE DELIVERY ORDER	3	HUMAN TECHNOLOGY INCORPORATED	\$19,674	
CP-M027000568	09/24/2007	COMPETITIVE DELIVERY ORDER	3	INTERNATIONAL INCORPORATED (7278)	\$71,454	
CP-M027000569	04/09/2007	COMPETITIVE DELIVERY ORDER	3	HUMAN TECHNOLOGY INCORPORATED (7278)	\$27,111	
CP-M027000570	09/24/2007	COMPETITIVE DELIVERY ORDER	3	INTERNATIONAL INCORPORATED (7278)	\$19,674	
CP-M027000571	09/24/2007	COMPETITIVE DELIVERY ORDER	3	SERCO INCORPORATED	\$19,674	
CP-M027000572	09/24/2007	COMPETITIVE DELIVERY ORDER	3	SRA INTERNATIONAL INCORPORATED (8004)	\$55,900	
CP-M027000573	09/24/2007	COMPETITIVE DELIVERY ORDER	3	TECHNOLOGIES INCORPORATED	\$55,900	
CP-M027000574	09/24/2007	COMPETITIVE DELIVERY ORDER	3	TECHNOLOGIES INCORPORATED	\$55,900	
CP-M027000575	09/24/2007	COMPETITIVE DELIVERY ORDER	3	INTERNATIONAL BUSINESS MACHINES CORPORATION	\$112,200	
CP-M027000576	09/24/2007	COMPETITIVE DELIVERY ORDER	3	PERFORMTECH INCORPORATED	\$27,518	
CP-M027000577	09/24/2007	COMPETITIVE DELIVERY ORDER	3	PERFORMTECH INCORPORATED	\$27,518	
CP-M027000578	09/24/2007	COMPETITIVE DELIVERY ORDER	3	INTERNATIONAL BUSINESS MACHINES CORPORATION	\$224,755	
CP-M027000579	09/24/2007	COMPETITIVE DELIVERY ORDER	3	TECHNOLOGIES INCORPORATED	\$20,120	
CP-M027000580	09/24/2007	COMPETITIVE DELIVERY ORDER	3	INTERNATIONAL INCORPORATED (7278)	\$19,674	
CP-M027000581	09/24/2007	COMPETITIVE DELIVERY ORDER	3	INTERNATIONAL INCORPORATED (7278)	\$19,674	
CP-M027000582	09/24/2007	COMPETITIVE DELIVERY ORDER	3	INTERNATIONAL BUSINESS MACHINES CORPORATION	\$23,638	
CP-M027000583	09/24/2007	COMPETITIVE DELIVERY ORDER	3	INTERNATIONAL INCORPORATED (7278)	\$71,389	
CP-M027000584	09/24/2007	COMPETITIVE DELIVERY ORDER	3	INTERNATIONAL INCORPORATED (7278)	\$103,888	
CP-M027000585	09/24/2007	COMPETITIVE DELIVERY ORDER	3	PERFORMTECH INCORPORATED	\$103,888	
CP-M027000586	09/24/2007	COMPETITIVE DELIVERY ORDER	3	TECHNOLOGIES INCORPORATED (8004)	\$103,888	
CP-M027000587	09/24/2007	COMPETITIVE DELIVERY ORDER	3	TECHNOLOGIES INCORPORATED	\$103,700	
CP-M027000588	09/24/2007	COMPETITIVE DELIVERY ORDER	3	SRA INTERNATIONAL INCORPORATED (8004)	\$103,700	
CP-M027000589	09/24/2007	COMPETITIVE DELIVERY ORDER	3	TECHNOLOGIES INCORPORATED	\$52,036	
CP-M027000590	09/24/2007	COMPETITIVE DELIVERY ORDER	3	INTERNATIONAL INCORPORATED (7278)	\$178,352	
CP-M027000591	09/24/2007	COMPETITIVE DELIVERY ORDER	3	INTERNATIONAL INCORPORATED (7278)	\$273,860	
CP-M027000592	09/24/2007	COMPETITIVE DELIVERY ORDER	3	SERCO INCORPORATED	\$67,802	
CP-M027000593	09/24/2007	COMPETITIVE DELIVERY ORDER	3	SRA INTERNATIONAL INCORPORATED (8004)	\$283,144	
CP-M027000594	09/24/2007	COMPETITIVE DELIVERY ORDER	3	SRA INTERNATIONAL INCORPORATED (8004)	\$283,144	
CP-M027000595	09/24/2007	COMPETITIVE DELIVERY ORDER	3	SRA INTERNATIONAL INCORPORATED (8004)	\$112,115	
CP-M027000596	09/24/2007	COMPETITIVE DELIVERY ORDER	3	SRA INTERNATIONAL INCORPORATED (8004)	\$23,505	
CP-M027000597	09/24/2007	COMPETITIVE DELIVERY ORDER	3	SRA INTERNATIONAL INCORPORATED (8004)	\$248,860	
CP-M027000598	09/24/2007	COMPETITIVE DELIVERY ORDER	3	SRA INTERNATIONAL INCORPORATED (8004)	\$248,860	
CP-M027000599	09/24/2007	COMPETITIVE DELIVERY ORDER	3	SRA INTERNATIONAL INCORPORATED (8004)	\$248,860	
CP-M027000600	09/24/2007	COMPETITIVE DELIVERY ORDER	3	SERCO INCORPORATED	\$148,024	
CP-M027000601	09/24/2007	COMPETITIVE DELIVERY ORDER	3	TECHNOLOGIES INCORPORATED	\$48,700	
CP-M027000602	09/24/2007	COMPETITIVE DELIVERY ORDER	3	HUMAN RESOURCES RESEARCH ORGANIZATION	\$44,299	
CP-M027000603	09/24/2007	COMPETITIVE DELIVERY ORDER	3	UNIVERSAL SYSTEMS AND TECHNOLOGY INCORPORATED	\$4,269	
CP-M027000604	09/24/2007	COMPETITIVE DELIVERY ORDER	3	UNIVERSAL SYSTEMS AND TECHNOLOGY INCORPORATED	\$4,269	
CP-M027000605	09/24/2007	COMPETITIVE DELIVERY ORDER	3	PERFORMTECH INCORPORATED	\$173,388	
CP-M027000606	09/24/2007	COMPETITIVE DELIVERY ORDER	3	PERFORMTECH INCORPORATED	\$173,388	
CP-M027000607	09/24/2007	COMPETITIVE DELIVERY ORDER	3	PERFORMTECH INCORPORATED	\$226,824	
CP-M027000608	09/24/2007	COMPETITIVE DELIVERY ORDER	3	INTERNATIONAL INCORPORATED (7278)	\$177,302	
CP-M027000609	09/24/2007	COMPETITIVE DELIVERY ORDER	3	SRA INTERNATIONAL INCORPORATED (8004)	\$52,454	
CP-M027000610	09/24/2007	COMPETITIVE DELIVERY ORDER	3	SRA INTERNATIONAL INCORPORATED (8004)	\$52,454	
CP-M027000611	09/24/2007	COMPETITIVE DELIVERY ORDER	3	SRA INTERNATIONAL INCORPORATED (8004)	\$52,454	
CP-M027000612	09/24/2007	COMPETITIVE DELIVERY ORDER	3	SRA INTERNATIONAL INCORPORATED (8004)	\$52,454	
CP-M027000613	09/24/2007	COMPETITIVE DELIVERY ORDER	3	THE CENTER FOR ORGANIZATIONAL EXCELLENCE INCORP	\$23,200	
CP-M027000614	09/24/2007	COMPETITIVE DELIVERY ORDER	3	TECHNOLOGIES INCORPORATED	\$73,500	
CP-M027000615	09/24/2007	COMPETITIVE DELIVERY ORDER	3	DELLOITTE CONSULTING LLP	\$9,348	
CP-M027000616	09/24/2007	COMPETITIVE DELIVERY ORDER	3	INTERNATIONAL INCORPORATED (7278)	\$103,888	
CP-M027000617	09/24/2007	COMPETITIVE DELIVERY ORDER	3	INTERNATIONAL INCORPORATED (7278)	\$123,544	
CP-M027000618	09/24/2007	COMPETITIVE DELIVERY ORDER	3	INTERNATIONAL INCORPORATED (7278)	\$125,388	
CP-M027000619	09/24/2007	COMPETITIVE DELIVERY ORDER	3	INTERNATIONAL INCORPORATED (7278)	\$125,388	
CP-M027000620	09/24/2007	COMPETITIVE DELIVERY ORDER	3	PERFORMTECH INCORPORATED	\$125,388	
CP-M027000621	09/24/2007	COMPETITIVE DELIVERY ORDER	3	PERFORMTECH INCORPORATED	\$125,388	

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Reference ID	PII	Effective Date	Exempt Category	Reason Not Completed	at Office	Contractor Name	Ultimate Contract Value
CP-M20-200001	489	01/12/2008	COMPETITIVE DELIVERY ORDER		1	INTERNATIONAL INCORPORATED (2719)	\$95,021
CP-M20-200002	492	01/12/2008	COMPETITIVE DELIVERY ORDER		3	BOOZ ALLEN HAMILTON INCORPORATED (8926)	\$95,200
CP-M20-200003	493	01/12/2008	COMPETITIVE DELIVERY ORDER		3	BOOZ ALLEN HAMILTON INCORPORATED (8926)	\$95,200
CP-M20-200004	494	01/12/2008	COMPETITIVE DELIVERY ORDER		3	BOOZ ALLEN HAMILTON INCORPORATED (8926)	\$95,200
CP-M20-200005	495	01/12/2008	COMPETITIVE DELIVERY ORDER		3	BOOZ ALLEN HAMILTON INCORPORATED (8926)	\$96,200
CP-M20-200006	503	01/12/2008	COMPETITIVE DELIVERY ORDER		3	BOOZ ALLEN HAMILTON INCORPORATED (8926)	\$118,300
CP-M20-200007	504	01/12/2008	COMPETITIVE DELIVERY ORDER		3	BOOZ ALLEN HAMILTON INCORPORATED (8926)	\$148,852
CP-M20-200008	509	01/12/2008	COMPETITIVE DELIVERY ORDER		1	BOOZ ALLEN HAMILTON INCORPORATED (8926)	\$54,666
CP-M20-200009	513	01/12/2008	COMPETITIVE DELIVERY ORDER		3	BOOZ ALLEN HAMILTON INCORPORATED (8926)	\$54,666
CP-M20-200010	543	01/12/2008	COMPETITIVE DELIVERY ORDER		3	BOOZ ALLEN HAMILTON INCORPORATED (8926)	\$132,133
CP-M20-200011	546	01/12/2008	COMPETITIVE DELIVERY ORDER		3	HUMAN TECHNOLOGY INCORPORATED	\$50,144
CP-M20-200012	586	01/12/2008	COMPETITIVE DELIVERY ORDER		3	HUMAN TECHNOLOGY INCORPORATED	\$131,153
CP-M20-200013	587	01/12/2008	COMPETITIVE DELIVERY ORDER		3	INTERNATIONAL INCORPORATED (2719)	\$71,732
CP-M20-200014	591	01/12/2008	COMPETITIVE DELIVERY ORDER		3	HUMAN TECHNOLOGY INCORPORATED	\$82,750
CP-M20-200015	592	01/12/2008	COMPETITIVE DELIVERY ORDER		3	HUMAN TECHNOLOGY INCORPORATED	\$82,750
CP-M20-200016	606	01/12/2008	COMPETITIVE DELIVERY ORDER		3	HUMAN TECHNOLOGY INCORPORATED	\$50,144
CP-M20-200017	614	01/12/2008	COMPETITIVE DELIVERY ORDER		3	HUMAN TECHNOLOGY INCORPORATED	\$50,144
CP-M20-200018	615	01/12/2008	COMPETITIVE DELIVERY ORDER		3	HUMAN TECHNOLOGY INCORPORATED	\$50,144
CP-M20-200019	629	01/12/2008	COMPETITIVE DELIVERY ORDER		3	SRA INTERNATIONAL INCORPORATED (8964)	\$130,188
CP-M20-200020	630	01/12/2008	COMPETITIVE DELIVERY ORDER		3	SRA INTERNATIONAL INCORPORATED (8964)	\$97,284
CP-M20-200021	631	01/12/2008	COMPETITIVE DELIVERY ORDER		3	SRA INTERNATIONAL INCORPORATED (8964)	\$50,144
CP-M20-200022	631	01/12/2008	COMPETITIVE DELIVERY ORDER		3	HUMAN TECHNOLOGY INCORPORATED	\$50,144
CP-M20-200023	639	01/12/2008	COMPETITIVE DELIVERY ORDER		3	HUMAN TECHNOLOGY INCORPORATED	\$50,144
CP-M20-200024	643	01/12/2008	COMPETITIVE DELIVERY ORDER		3	FEDERAL MANAGEMENT PARTNERS INCORPORATED	\$124,659
CP-M20-200025	647	01/12/2008	COMPETITIVE DELIVERY ORDER		3	HUMAN TECHNOLOGY INCORPORATED	\$50,144
CP-M20-200026	657	01/12/2008	COMPETITIVE DELIVERY ORDER		3	HUMAN TECHNOLOGY INCORPORATED	\$137,113
CP-M20-200027	658	01/12/2008	COMPETITIVE DELIVERY ORDER		3	INTERNATIONAL BUSINESS MACHINES CORPORATION	\$214,839
CP-M20-200028	660	01/12/2008	COMPETITIVE DELIVERY ORDER		3	CONSULTING GROUP INCORPORATED	\$205,900
CP-M20-200029	683	01/12/2008	COMPETITIVE DELIVERY ORDER		3	CONSULTING GROUP INCORPORATED	\$205,900
CP-M20-200030	689	01/12/2008	COMPETITIVE DELIVERY ORDER		3	BOOZ ALLEN HAMILTON INCORPORATED (8926)	\$113,538
CP-M20-200031	699	01/12/2008	COMPETITIVE DELIVERY ORDER		3	ICF CONSULTING GROUP INCORPORATED	\$58,888
CP-M20-200032	705	01/12/2008	COMPETITIVE DELIVERY ORDER		3	ICF CONSULTING GROUP INCORPORATED	\$58,888
CP-M20-200033	707	01/12/2008	COMPETITIVE DELIVERY ORDER		3	ICF CONSULTING GROUP INCORPORATED	\$58,888
CP-M20-200034	710	01/12/2008	COMPETITIVE DELIVERY ORDER		3	ICF CONSULTING GROUP INCORPORATED	\$58,888
CP-M20-200035	717	01/12/2008	COMPETITIVE DELIVERY ORDER		3	FEDERAL MANAGEMENT PARTNERS INCORPORATED	\$75,050
CP-M20-200036	723	01/12/2008	COMPETITIVE DELIVERY ORDER		3	FEDERAL MANAGEMENT PARTNERS INCORPORATED	\$75,050
CP-M20-200037	732	01/12/2008	COMPETITIVE DELIVERY ORDER		3	FEDERAL MANAGEMENT PARTNERS INCORPORATED	\$75,050
CP-M20-200038	738	01/12/2008	COMPETITIVE DELIVERY ORDER		3	FEDERAL MANAGEMENT PARTNERS INCORPORATED	\$75,050
CP-M20-200039	741	01/12/2008	COMPETITIVE DELIVERY ORDER		3	SRA INTERNATIONAL INCORPORATED (8964)	\$220,912
CP-M20-200040	742	01/12/2008	COMPETITIVE DELIVERY ORDER		3	SRA INTERNATIONAL INCORPORATED (8964)	\$220,912
CP-M20-200041	743	01/12/2008	COMPETITIVE DELIVERY ORDER		3	SRA INTERNATIONAL INCORPORATED (8964)	\$220,912
CP-M20-200042	744	01/12/2008	COMPETITIVE DELIVERY ORDER		3	SRA INTERNATIONAL INCORPORATED (8964)	\$220,912
CP-M20-200043	747	01/12/2008	COMPETITIVE DELIVERY ORDER		3	SRA INTERNATIONAL INCORPORATED (8964)	\$220,912
CP-M20-200044	751	01/12/2008	COMPETITIVE DELIVERY ORDER		3	SRA INTERNATIONAL INCORPORATED (8964)	\$220,912
CP-M20-200045	761	01/12/2008	COMPETITIVE DELIVERY ORDER		3	SRA INTERNATIONAL INCORPORATED (8964)	\$220,912
CP-M20-200046	768	01/12/2008	COMPETITIVE DELIVERY ORDER		3	SRA INTERNATIONAL INCORPORATED (8964)	\$220,912
CP-M20-200047	773	01/12/2008	COMPETITIVE DELIVERY ORDER		3	SRA INTERNATIONAL INCORPORATED (8964)	\$220,912
CP-M20-200048	781	01/12/2008	COMPETITIVE DELIVERY ORDER		3	SRA INTERNATIONAL INCORPORATED (8964)	\$220,912
CP-M20-200049	788	01/12/2008	COMPETITIVE DELIVERY ORDER		3	SRA INTERNATIONAL INCORPORATED (8964)	\$220,912
CP-M20-200050	791	01/12/2008	COMPETITIVE DELIVERY ORDER		3	SRA INTERNATIONAL INCORPORATED (8964)	\$220,912
CP-M20-200051	798	01/12/2008	COMPETITIVE DELIVERY ORDER		3	SRA INTERNATIONAL INCORPORATED (8964)	\$220,912
CP-M20-200052	801	01/12/2008	COMPETITIVE DELIVERY ORDER		3	SRA INTERNATIONAL INCORPORATED (8964)	\$220,912
CP-M20-200053	804	01/12/2008	COMPETITIVE DELIVERY ORDER		3	SRA INTERNATIONAL INCORPORATED (8964)	\$220,912
CP-M20-200054	807	01/12/2008	COMPETITIVE DELIVERY ORDER		3	SRA INTERNATIONAL INCORPORATED (8964)	\$220,912
CP-M20-200055	810	01/12/2008	COMPETITIVE DELIVERY ORDER		3	SRA INTERNATIONAL INCORPORATED (8964)	\$220,912
CP-M20-200056	813	01/12/2008	COMPETITIVE DELIVERY ORDER		3	SRA INTERNATIONAL INCORPORATED (8964)	\$220,912
CP-M20-200057	816	01/12/2008	COMPETITIVE DELIVERY ORDER		3	SRA INTERNATIONAL INCORPORATED (8964)	\$220,912
CP-M20-200058	819	01/12/2008	COMPETITIVE DELIVERY ORDER		3	SRA INTERNATIONAL INCORPORATED (8964)	\$220,912
CP-M20-200059	822	01/12/2008	COMPETITIVE DELIVERY ORDER		3	SRA INTERNATIONAL INCORPORATED (8964)	\$220,912
CP-M20-200060	825	01/12/2008	COMPETITIVE DELIVERY ORDER		3	SRA INTERNATIONAL INCORPORATED (8964)	\$220,912
CP-M20-200061	828	01/12/2008	COMPETITIVE DELIVERY ORDER		3	SRA INTERNATIONAL INCORPORATED (8964)	\$220,912
CP-M20-200062	831	01/12/2008	COMPETITIVE DELIVERY ORDER		3	SRA INTERNATIONAL INCORPORATED (8964)	\$220,912
CP-M20-200063	834	01/12/2008	COMPETITIVE DELIVERY ORDER		3	SRA INTERNATIONAL INCORPORATED (8964)	\$220,912
CP-M20-200064	837	01/12/2008	COMPETITIVE DELIVERY ORDER		3	SRA INTERNATIONAL INCORPORATED (8964)	\$220,912
CP-M20-200065	840	01/12/2008	COMPETITIVE DELIVERY ORDER		3	SRA INTERNATIONAL INCORPORATED (8964)	\$220,912
CP-M20-200066	843	01/12/2008	COMPETITIVE DELIVERY ORDER		3	SRA INTERNATIONAL INCORPORATED (8964)	\$220,912
CP-M20-200067	846	01/12/2008	COMPETITIVE DELIVERY ORDER		3	SRA INTERNATIONAL INCORPORATED (8964)	\$220,912
CP-M20-200068	849	01/12/2008	COMPETITIVE DELIVERY ORDER		3	SRA INTERNATIONAL INCORPORATED (8964)	\$220,912
CP-M20-200069	852	01/12/2008	COMPETITIVE DELIVERY ORDER		3	SRA INTERNATIONAL INCORPORATED (8964)	\$220,912
CP-M20-200070	855	01/12/2008	COMPETITIVE DELIVERY ORDER		3	SRA INTERNATIONAL INCORPORATED (8964)	\$220,912

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PMID	Referenced ID# PID	Effective Date	Extent Completed	Reason Not Completed	Contractor Name	Ultimate Contract Value
CPMT0026802166	CPM020700040	02/20/2008	COMPETITIVE DELIVERY ORDER	3 FEDERAL MANAGEMENT PARTNERS INCORPORATED	3 FEDERAL MANAGEMENT PARTNERS INCORPORATED	\$52,578
CPMT0026802167	CPM020700039	02/20/2008	COMPETITIVE DELIVERY ORDER	3 ICF CONSULTING GROUP INCORPORATED	3 ICF CONSULTING GROUP INCORPORATED	\$55,852
CPMT0026802264	CPM020700006	02/14/2008	COMPETITIVE DELIVERY ORDER	3 C2 TECHNOLOGIES INCORPORATED	3 C2 TECHNOLOGIES INCORPORATED	\$54,180
CPMT0026802269	CPM020700033	02/14/2008	COMPETITIVE DELIVERY ORDER	3 C2 TECHNOLOGIES INCORPORATED	3 C2 TECHNOLOGIES INCORPORATED	\$54,180
CPMT0026802270	CPM020700006	02/14/2008	COMPETITIVE DELIVERY ORDER	3 ICF CONSULTING GROUP INCORPORATED	3 ICF CONSULTING GROUP INCORPORATED	\$74,641
CPMT0026802271	CPM020700006	02/14/2008	COMPETITIVE DELIVERY ORDER	3 ICF CONSULTING GROUP INCORPORATED	3 ICF CONSULTING GROUP INCORPORATED	\$75,807
CPMT0026802273	CPM020700025	02/14/2008	COMPETITIVE DELIVERY ORDER	3 BOOZ ALLEN HAMILTON INCORPORATED (B26)	3 BOOZ ALLEN HAMILTON INCORPORATED (B26)	\$24,554
CPMT0026802274	CPM020700006	02/14/2008	COMPETITIVE DELIVERY ORDER	3 BOOZ ALLEN HAMILTON INCORPORATED (B26)	3 BOOZ ALLEN HAMILTON INCORPORATED (B26)	\$915,372
CPMT0026802279	CPM020700031	02/14/2008	COMPETITIVE DELIVERY ORDER	3 BOOZ ALLEN HAMILTON INCORPORATED (B26)	3 BOOZ ALLEN HAMILTON INCORPORATED (B26)	\$175,595
CPMT0026802281	CPM020700027	02/14/2008	COMPETITIVE DELIVERY ORDER	3 DELLOITTE CONSULTING LLP	3 DELLOITTE CONSULTING LLP	\$57,838
CPMT0026802283	CPM020700039	02/15/2008	COMPETITIVE DELIVERY ORDER	3 THE CENTER FOR ORGANIZATIONAL EXCELLENCE INCORPORATED	3 THE CENTER FOR ORGANIZATIONAL EXCELLENCE INCORPORATED	\$51,565
CPMT0026802284	CPM020700027	02/15/2008	COMPETITIVE DELIVERY ORDER	3 THE CENTER FOR ORGANIZATIONAL EXCELLENCE INCORPORATED	3 THE CENTER FOR ORGANIZATIONAL EXCELLENCE INCORPORATED	\$75,680
CPMT0026802285	CPM020700027	02/14/2008	COMPETITIVE DELIVERY ORDER	3 FEDERAL MANAGEMENT PARTNERS INCORPORATED	3 FEDERAL MANAGEMENT PARTNERS INCORPORATED	\$75,472
CPMT0026802286	CPM020700040	02/14/2008	COMPETITIVE DELIVERY ORDER	3 BOOZ ALLEN HAMILTON INCORPORATED (B26)	3 BOOZ ALLEN HAMILTON INCORPORATED (B26)	\$82,550
CPMT0026802288	CPM020700025	02/14/2008	COMPETITIVE DELIVERY ORDER	3 BOOZ ALLEN HAMILTON INCORPORATED (B26)	3 BOOZ ALLEN HAMILTON INCORPORATED (B26)	\$90,592
CPMT0026802289	CPM020700025	02/14/2008	COMPETITIVE DELIVERY ORDER	3 BOOZ ALLEN HAMILTON INCORPORATED (B26)	3 BOOZ ALLEN HAMILTON INCORPORATED (B26)	\$84,715
CPMT0026802311	CPM020700025	02/15/2008	COMPETITIVE DELIVERY ORDER	3 BOOZ ALLEN HAMILTON INCORPORATED (B26)	3 BOOZ ALLEN HAMILTON INCORPORATED (B26)	\$96,414
CPMT0026802312	CPM020700025	02/15/2008	COMPETITIVE DELIVERY ORDER	3 BOOZ ALLEN HAMILTON INCORPORATED (B26)	3 BOOZ ALLEN HAMILTON INCORPORATED (B26)	\$93,434
CPMT0026802314	CPM020700025	02/15/2008	COMPETITIVE DELIVERY ORDER	3 BOOZ ALLEN HAMILTON INCORPORATED (B26)	3 BOOZ ALLEN HAMILTON INCORPORATED (B26)	\$187,595
CPMT0026802317	CPM020700001	02/15/2008	COMPETITIVE DELIVERY ORDER	3 BOOZ ALLEN HAMILTON INCORPORATED (B26)	3 BOOZ ALLEN HAMILTON INCORPORATED (B26)	\$93,557
CPMT0026802318	CPM020700025	02/15/2008	COMPETITIVE DELIVERY ORDER	3 INTERNATIONAL INCORPORATED (7278)	3 INTERNATIONAL INCORPORATED (7278)	\$127,462
CPMT0026802319	CPM020700035	02/15/2008	COMPETITIVE DELIVERY ORDER	3 INTERNATIONAL BUSINESS MACHINES CORPORATION	3 INTERNATIONAL BUSINESS MACHINES CORPORATION	\$181,113
CPMT0026802343	CPM020700034	02/15/2008	COMPETITIVE DELIVERY ORDER	3 HUMAN TECHNOLOGY INCORPORATED	3 HUMAN TECHNOLOGY INCORPORATED	\$50,322
CPMT0026802348	CPM020700028	02/16/2008	COMPETITIVE DELIVERY ORDER	3 BOOZ ALLEN HAMILTON INCORPORATED (B26)	3 BOOZ ALLEN HAMILTON INCORPORATED (B26)	\$76,852
CPMT0026802350	CPM020700025	02/16/2008	COMPETITIVE DELIVERY ORDER	3 BOOZ ALLEN HAMILTON INCORPORATED (B26)	3 BOOZ ALLEN HAMILTON INCORPORATED (B26)	\$71,592
CPMT0026802359	CPM020700033	02/16/2008	COMPETITIVE DELIVERY ORDER	3 INTERNATIONAL INCORPORATED (7278)	3 INTERNATIONAL INCORPORATED (7278)	\$71,792
CPMT0026802360	CPM020700033	02/16/2008	COMPETITIVE DELIVERY ORDER	3 C2 TECHNOLOGIES INCORPORATED	3 C2 TECHNOLOGIES INCORPORATED	\$230,384
CPMT0026802362	CPM020700033	02/16/2008	COMPETITIVE DELIVERY ORDER	3 BOOZ ALLEN HAMILTON INCORPORATED (B26)	3 BOOZ ALLEN HAMILTON INCORPORATED (B26)	\$58,109
CPMT0026802363	CPM020700033	02/16/2008	COMPETITIVE DELIVERY ORDER	3 BOOZ ALLEN HAMILTON INCORPORATED (B26)	3 BOOZ ALLEN HAMILTON INCORPORATED (B26)	\$141,479
CPMT0026802364	CPM020700033	02/16/2008	COMPETITIVE DELIVERY ORDER	3 BOOZ ALLEN HAMILTON INCORPORATED (B26)	3 BOOZ ALLEN HAMILTON INCORPORATED (B26)	\$241,937
CPMT0026802365	CPM020700025	02/16/2008	COMPETITIVE DELIVERY ORDER	3 HUMAN TECHNOLOGY INCORPORATED	3 HUMAN TECHNOLOGY INCORPORATED	\$50,144
CPMT0026802366	CPM020700025	02/16/2008	COMPETITIVE DELIVERY ORDER	3 BOOZ ALLEN HAMILTON INCORPORATED (B26)	3 BOOZ ALLEN HAMILTON INCORPORATED (B26)	\$187,880
CPMT0026802369	CPM020700001	02/16/2008	COMPETITIVE DELIVERY ORDER	3 BOOZ ALLEN HAMILTON INCORPORATED (B26)	3 BOOZ ALLEN HAMILTON INCORPORATED (B26)	\$86,588
CPMT0026802370	CPM020700030	02/16/2008	COMPETITIVE DELIVERY ORDER	3 BOOZ ALLEN HAMILTON INCORPORATED (B26)	3 BOOZ ALLEN HAMILTON INCORPORATED (B26)	\$84,401
CPMT0026802371	CPM020700030	02/16/2008	COMPETITIVE DELIVERY ORDER	3 HUMAN TECHNOLOGY INCORPORATED	3 HUMAN TECHNOLOGY INCORPORATED	\$50,742
CPMT0026802372	CPM020700030	02/16/2008	COMPETITIVE DELIVERY ORDER	3 ICF CONSULTING GROUP INCORPORATED	3 ICF CONSULTING GROUP INCORPORATED	\$160,224
CPMT0026802373	CPM020700030	02/16/2008	COMPETITIVE DELIVERY ORDER	3 THE CENTER FOR ORGANIZATIONAL EXCELLENCE INCORPORATED	3 THE CENTER FOR ORGANIZATIONAL EXCELLENCE INCORPORATED	\$53,184
CPMT0026802374	CPM020700030	02/16/2008	COMPETITIVE DELIVERY ORDER	3 THE CENTER FOR ORGANIZATIONAL EXCELLENCE INCORPORATED	3 THE CENTER FOR ORGANIZATIONAL EXCELLENCE INCORPORATED	\$227,900
CPMT0026802375	CPM020700030	02/16/2008	COMPETITIVE DELIVERY ORDER	3 ICF CONSULTING GROUP INCORPORATED	3 ICF CONSULTING GROUP INCORPORATED	\$116,644
CPMT0026802376	CPM020700030	02/16/2008	COMPETITIVE DELIVERY ORDER	3 ICF CONSULTING GROUP INCORPORATED	3 ICF CONSULTING GROUP INCORPORATED	\$59,274
CPMT0026802377	CPM020700030	02/16/2008	COMPETITIVE DELIVERY ORDER	3 BOOZ ALLEN HAMILTON INCORPORATED (B26)	3 BOOZ ALLEN HAMILTON INCORPORATED (B26)	\$51,750
CPMT0026802378	CPM020700030	02/16/2008	COMPETITIVE DELIVERY ORDER	3 ICF CONSULTING GROUP INCORPORATED	3 ICF CONSULTING GROUP INCORPORATED	\$97,360
CPMT0026802379	CPM020700030	02/16/2008	COMPETITIVE DELIVERY ORDER	3 BOOZ ALLEN HAMILTON INCORPORATED (B26)	3 BOOZ ALLEN HAMILTON INCORPORATED (B26)	\$107,970
CPMT0026802380	CPM020700030	02/16/2008	COMPETITIVE DELIVERY ORDER	3 BOOZ ALLEN HAMILTON INCORPORATED (B26)	3 BOOZ ALLEN HAMILTON INCORPORATED (B26)	\$143,476
CPMT0026802381	CPM020700030	02/16/2008	COMPETITIVE DELIVERY ORDER	3 BOOZ ALLEN HAMILTON INCORPORATED (B26)	3 BOOZ ALLEN HAMILTON INCORPORATED (B26)	\$190,239
CPMT0026802382	CPM020700030	02/16/2008	COMPETITIVE DELIVERY ORDER	3 SERCO INCORPORATED	3 SERCO INCORPORATED	\$54,708
CPMT0026802383	CPM020700030	02/16/2008	COMPETITIVE DELIVERY ORDER	3 SERCO INCORPORATED	3 SERCO INCORPORATED	\$54,708
CPMT0026802384	CPM020700030	02/16/2008	COMPETITIVE DELIVERY ORDER	3 ICF CONSULTING GROUP INCORPORATED	3 ICF CONSULTING GROUP INCORPORATED	\$79,423
CPMT0026802385	CPM020700030	02/16/2008	COMPETITIVE DELIVERY ORDER	3 POWERTRAIN INCORPORATED (B26)	3 POWERTRAIN INCORPORATED (B26)	\$55,227
CPMT0026802386	CPM020700030	02/16/2008	COMPETITIVE DELIVERY ORDER	3 POWERTRAIN INCORPORATED (B26)	3 POWERTRAIN INCORPORATED (B26)	\$55,227

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THURSDAY, APRIL 3, 2008.

GENERAL SERVICES ADMINISTRATION

WITNESS

**LURITA DOAN, ADMINISTRATOR OF GENERAL SERVICES, GENERAL
SERVICES ADMINISTRATION**

CHAIRMAN SERRANO'S OPENING STATEMENT

Mr. SERRANO. The subcommittee will come to order. Good morning to all.

The subcommittee will hear testimony today on the subject of the fiscal year 2009 budget request of the General Services Administration, GSA. GSA has been supporting Federal agencies and their workers since 1949 by acquiring goods and providing services and facilities to support the needs of those agencies. The GSA performs a wide range of services, from the construction of Border Patrol stations to the management of many e-gov initiatives. Additionally, the GSA coordinates and evaluates governmentwide policies related to the management of government property, technology, and administrative services.

With all of these duties, it is important to ensure that GSA conducts itself in an unbiased and fair manner in negotiating and awarding contracts for the very services our government uses on a daily basis. I am especially troubled by the refusal of a vendor, the fairness of whose contract has been called into question, to cooperate with an inspector general investigation into the matter. Additionally, I am concerned about the recent court ruling ordering GSA to stop work on a \$50 billion contract award. I believe that all of us here owe an obligation to ensure that money spent by the GSA is money well spent. And to do that, we must have cooperation from all sides, both at the GSA and by the private vendors hired.

Today we welcome back GSA Administrator Lurita Doan to discuss her agency's fiscal year 2009 budget. This is Ms. Doan's second appearance before this subcommittee in support of her agency's budget request.

While much of GSA's activity is driven by fees, approximately \$8 billion of the budget request will require action by this subcommittee. This year's request includes some interesting proposals, including a new pilot program for real property disposal, as well as requests to reorganize some of the agency's citizen services. Additionally, the request includes funding to assist agencies in the Presidential transition.

Administrator Doan, this subcommittee looks forward to the remarks you will make today. I would like to ask you to please keep your opening statement to 5 minutes. Your entire written statement will be submitted for the record.

At this time I would like to remind you, Ms. Doan, that Mr. Regula will be leaving Congress at the end of the year. So, you know, renaming every building in his State is not improper since he did not ask for it. It would be improper if he asked for it. I am not asking for it either. I am just saying it is not a bad idea.

Mr. SERRANO. Mr. Regula.

MR. REGULA'S OPENING STATEMENT

Mr. REGULA. Thank you, Mr. Chairman. You said it just exactly right. I was kidding.

Well, we are happy to welcome you, Ms. Doan, and you do have a very important responsibility. It is one of those unsung parts of the Federal Government that most people do not have any idea what is involved. Nine thousand different buildings, historic structures, management of government operations. It is really a management challenge. And I am sure one of the really great challenges you must have is maintenance. I chaired the Interior Subcommittee of Appropriations for several years, and that was one of the big challenges that we had; and also as a member of the Smithsonian Board for several years, the same thing. And I am sure you find this true. Fixing up buildings and doing the heating system and electric and all that is not glamorous, and I would suspect, and maybe you want to comment on this, it adds some real challenges to ensure that there is adequate maintenance of these 9,000 or so structures.

I guess it goes back for me at least a little bit, having grown up and still living on a farm, if you do not fix the roof, the barn is going to fall down eventually because of the water damage. And you must have the same kind of a challenge of maintenance. And so we will do all we can to help your agency meet these challenges. And they are always expensive.

Thank you, Mr. Chairman.

Mr. SERRANO. Thank you.

Mr. SERRANO. So if you do not fix the roof, the barn will leak?

Mr. REGULA. Absolutely.

Mr. SERRANO. Here I grew up and still live in an apartment building. If the guy upstairs overflows his sink, is that similar?

Mr. REGULA. Yeah, very similar, although you do not have a mound full of hay underneath it that is going to rot.

Mr. SERRANO. No.

Mr. REGULA. There may be other dimensions to it.

Mr. SERRANO. Just a rug, and it will stink for the next year. This is wonderful. It is a shame that he is leaving, because we could have made an incredible standup duo.

Ms. DOAN. There is still time.

Mr. SERRANO. There is still time.

Ms. DOAN. Please.

ADMINISTRATOR DOAN'S TESTIMONY

Ms. DOAN. Chairman Serrano, Ranking Member Regula, and distinguished members of the subcommittee, I am honored to appear before you today in support of GSA's 2009 budget. I have submitted

a written statement, and I thank you for entering it into the record.

A year ago I came before the subcommittee and reported that GSA had made some difficult, necessary, but innovative choices designed to improve our service to our customers and provide a better return on taxpayer dollars. I am pleased to report that GSA has made significant progress. The budget is balanced, we had a clean audit. Yesterday the GSA's 2007 Performance and Accountability Report was awarded the Certificate of Excellence from the Association of Government Accountants, and this is the highest recognition in Federal Government management reporting. We are really proud of that.

We leverage the buying power of the Federal Government to provide quality workplaces, best-value products, services and solutions, and we also provide government services and information to citizens. Last year USA.gov and GobiernoUSA.gov received more than 100 million visits.

GSA's fiscal year 2009 planned total obligations are 20.973 billion, with over 20 billion of these funds coming in the form of customer reimbursements for purchases or rent paid for space under GSA jurisdiction, custody or control.

GSA is a real bargain. We are requesting appropriations of 706.4 million, which is really just 2.2 percent of the total budget. For the Public Buildings Service, GSA requests 8.387 billion in new obligational authority. And of these funds, 620 million are requested for the construction and acquisition of critical facilities for the Department of Homeland Security, the FDA and the Judiciary. We also request new obligational authority of 692 million to address the backlog of repairs and projects.

I would like to urge the committee to support the consolidated DHS headquarters at St. Elizabeths West Campus in Washington, D.C. We believe that the consolidation is a high priority both for GSA and for the administration. We have experience as stewards of over 425 historic properties, and GSA can preserve this historic landmark, while providing DHS with a consolidated campus and home for the agency, and avoid hundreds of millions of dollars in rent payments over the life of the project.

We also request 36.6 million for items that will conserve water and energy in Federal buildings between major renovations. GSA is doing truly exciting work in this area, and we have just completed a 1-megawatt solar power system located on 6 acres at our Denver Federal Center. We are going to be planning a dedication in June of this year at the solar park, and I invite all the members of this committee to join us for that ceremony.

GSA is also the Nation's premiere procurement agency. Since creating FAS, the Federal Acquisition Service, in May of 2007, we are recognizing the gains from our reorganization and the elimination of red tape, as well as the reassignment of underutilized employees to more demanding requirements.

But our budget is important for what it does not contain. Our efforts to create a better working environment, to reward innovation and creativity is directly helping GSA to retain our existing contracting officers. So I am happy to report that as a result, GSA is one of the few agencies that will not be requesting new authorities

to hire a large number of new contracting officers. GSA has developed a more aggressive telework strategy that will encourage eligible government employees to telework. And GSA has expanded our offerings in State and local government, and for the first time these governments are able to save taxpayer dollars by leveraging the overall purchasing power of GSA. And I am pleased to say that our State and local government purchases are now one of the fastest-growing programs in our portfolio, and the taxpayers are benefiting from these lower costs.

Just to summarize, I began my tenure as the Administrator fighting against wasteful spending and duplicative costs within the Federal Government. We have submitted a fiscally responsible budget request, representing the minimum resources required to continue GSA's commitment to excellence in the business of government. Where possible, we have returned funds and implemented planned savings ahead of schedule. And I am particularly pleased that GSA has identified a number of cost-cutting and wasteful sources of Government spending, any of which I will be happy to discuss in detail.

I am committed to ensuring that the funds entrusted to GSA, which represent the hard-earned tax dollars of our citizens, are used in a prudent manner. We have a great workforce at GSA. We are doing innovative work on several important national initiatives. Approval of our budget is vital to help us achieve our mutual goal of providing superior service to our client agencies and, by extension, the public. I look forward to continuing the discussion of our fiscal year 2009 budget request with you and with the members of your subcommittee and with the staff. Thank you.

Mr. SERRANO. Thank you for your testimony.

[The information follows:]

**STATEMENT OF LURITA DOAN
ADMINISTRATOR OF GENERAL SERVICES
BEFORE THE
SUBCOMMITTEE ON FINANCIAL SERVICES
AND GENERAL GOVERNMENT
COMMITTEE ON APPROPRIATIONS
UNITED STATES HOUSE OF REPRESENTATIVES**

April 3, 2008



Chairman Serrano, Ranking Member Regula, and Distinguished Members of the Subcommittee, I am Lurita Doan, Administrator of General Services. I am pleased to have this opportunity to appear before you today to support the agency's fiscal year (FY) 2009 budget request.

A year ago, I came before this Subcommittee and told the Members that the General Services Administration (GSA) had made some difficult but necessary choices designed to improve service to GSA's customers and provide a better return on taxpayer dollars entrusted to the agency. This year, I am pleased to report that GSA has made significant progress. The budget is balanced. We have a clean audit. We have restored and strengthened the trust and confidence of our largest customers: Department of Defense and the Courts. And GSA is working as One GSA, with One Voice so that we can better serve our customer agencies, Congress, and the American people.

The agency is continuing down this path. GSA is upholding its mission to leverage the buying power of the Federal Government to acquire best value for taxpayers and our Federal customers. We continue to move forward – fulfilling our role as stewards of Federal space and property, providing quality workplaces, serving as the primary source for best-value products, services and solutions, and as innovators in anticipating the Federal Government's current and future needs and as providers of Government information for citizens. There is no need for other agencies to duplicate our mission, which would increase the cost of these services to the American taxpayer.

GSA's FY 2009 budget request is the first budget submitted within the framework and under the direction of GSA's 2007-2012 Strategic Plan. The budget request before the Committee would allow us to put into action the principles and vision of our new Strategic Plan. The budget would provide the resources necessary for GSA to lead the Federal Government in acquisition services, asset management, business solutions, and management policies.

GSA's Strategic Plan answered President Bush's challenge to all Federal agencies to create a Government that is more citizen-centered and results oriented. The plan established a refocused mission, along with new strategic goals and a reaffirmation of the agency's core values. The GSA core values of "INTEGRITY", "ACCOUNTABILITY and TRANSPARENCY in OPERATIONS", and "EFFECTIVE LEADERSHIP and RESPONSIBLE DECISION-MAKING" are integral to our business success and the foundation of the budget request before you. My roots are in the small business community and it is deep within my nature to try and do more with less.

On the topic of small business, last year I stood before this Subcommittee and GSA had a failing grade on our small business procurement practices from the Small Business Administration (SBA).

This year, I am pleased to report that GSA has increased our small business procurement from 32 percent in 2006 to 34 percent in 2007. Last month, the Small Business Administration released its Procurement Scorecard for the first half of FY 2008, and I am proud to report that GSA has a progress rating of GREEN. GSA scored 100-percent on all of the nine evaluation measures. Additionally, SBA's report highlights GSA's top-level agency commitment to small business contracting in its "Best Practices" section, pointing out that I have required small business goals as part of each of GSA's 11 Regional Administrators' annual performance evaluations.

FY 2009 BUDGET REQUEST

GSA's FY 2009 request is an "honest" budget. Where possible, we have returned funds and implemented planned savings ahead of schedule. We have proposed a number of realignments of funds to match resources with the organizations within GSA that are responsible for program delivery, increasing accountability and transparency. This is a fiscally responsible budget request, representing the minimum resources required to continue GSA's commitment to excellence in the business of government.

GSA's FY 2009 planned total obligations are \$20.973 billion, with over \$20 billion of these funds flowing to GSA from customer reimbursements to revolving funds for purchases of goods and services or as rent paid for space in Federally-owned and -leased buildings under GSA jurisdiction, custody or control. We are requesting appropriations of \$706.4 million in FY 2009, just 2.2% of the total budget. GSA's request includes \$525 million for the Federal Buildings Fund, \$172.9 million for GSA

operating appropriations, and an additional \$8.5 million to support the transition to a new Presidential Administration following the November 2008 general election. GSA supports Presidential Transition by providing office space, furniture, and information technology equipment and services to both the incoming and outgoing administrations.

PRESIDENTIAL TRANSITION

GSA has requested \$8.520 million for the Presidential Transition Fund, to provide for the orderly transfer of Executive power following this November's general election. GSA has a long and proud history of providing logistical support to both the incoming and outgoing Presidential administrations. In the FY 2009 transition, GSA will provide office space, furniture, telecommunications and Information Technology equipment and services, and a variety of other administrative services to both the incoming and outgoing administrations.

GSA's request includes \$5.3 million for the Incoming administration, to provide the President-elect and Vice-President-elect with suitable office space, payment of compensation for office staffs and personnel detailed from Departments and agencies, procurement of experts or consultants, and payment of travel, subsistence and other necessary expenses.

We have also requested \$2.22 million for the Outgoing administration, to provide the outgoing President and Vice President with services, facilities, and personnel necessary to wind up affairs, and \$1 million for the orientation for key prospective Presidential

appointees. Orientation funds would provide for briefings, workshops, or other activities to acquaint key prospective appointees of the President-elect with the types of problems and challenges that they will be confronted with prior to assuming the responsibility of their positions after the inauguration.

PUBLIC BUILDINGS SERVICE (PBS)

In support of our mission, the Public Buildings Service of GSA has continued to strengthen the agency's relationship with key clients. GSA personnel, especially PBS Commissioner David Winstead, have worked closely with clients such as the Federal Judiciary and the Department of Homeland Security to support their needs for more efficient space requirements.

In my tenure as Administrator, I personally have visited GSA's land ports of entry on the Nation's northern and southern borders to work with the Department of Homeland Security in developing a plan to provide greater security and to relieve delays and inefficiencies at the land ports of entry. Years of inattention and rapid growth in trade with Mexico and Canada have turned these gateways into choke points where delays need to be reduced. I have made rectifying this situation one of my top priorities for 2008. Over the past several months, GSA has: encouraged state and local leaders to send us practical solutions to relieve congestion; and urged greater participation from the private sector, as infrastructure enhancements are a perfect opportunity for public-

private partnerships. I want to thank the Members of this Committee for their support for the land ports of entry program and ask for your continued backing for this year's request.

GSA also continues to work with DHS to provide critically needed facilities for a consolidated headquarters campus at St. Elizabeths West Campus in the District of Columbia. We were extremely disappointed that last year's appropriations act did not fund this project even though the House version and Senate Committee versions of the bill had funding designated for this project. The consolidation at St. Elizabeths is the Administration's highest priority for new construction. I hope we can be more convincing this year of the importance of this project to the safety of our communities and neighborhoods around the country.

Currently, elements of DHS are located in more than 6 million square feet of Federally-owned and -leased space in about 40 locations throughout the Washington, DC area. In many instances these locations reflect the housing plans of the many different agencies that pre-dated the establishment of DHS as a consolidated agency. DHS's mission, the protection of our homeland, is vital and requires an integrated approach. St. Elizabeths is a National Historic Landmark. GSA is a steward of more than 425 of this nation's historic properties, including 11 individually listed National Historic Landmarks and 52 buildings that contribute to National Historic Landmark districts. As I told the Advisory Council on Historic Preservation last November, when I look at a project like the West Campus of St. Elizabeths, I'm filled with promise and pride. We

can preserve this wonderful landmark while strengthening national security and bringing economic development to a historically, culturally, and strategically valuable area of our Nation's capital. And St. Elizabeths, as the new home for DHS, will offer hundreds of millions of dollars in avoided rent payments over the life of the project. I sincerely hope this is the year we are able to move beyond the status quo, because Mother Nature and her deteriorating effects on these historic structures are the only winners now.

Our FY 2009 budget requests \$8.378 billion in New Obligational Authority (NOA) for the Public Buildings Service. The Construction and Acquisition Program reflects \$620 million in NOA which will provide funding for critical facility projects for DHS, the Food and Drug Administration (FDA), and the Judiciary. The request includes:

- \$426 million for two agency consolidation projects
 - \$347 million DHS Consolidation in Washington, DC
 - \$79 million FDA Consolidation in Montgomery County, MD
- \$74 million for 2 land ports of entry facilities in San Ysidro, CA and Portal, ND
- \$110 million for the U.S. Courthouse in San Diego, CA
- \$10 million for environmental remediation at the Denver Federal Center in Lakewood, CO

Within the Capital Investment Program, Repairs and Alterations (R&As) remain an important GSA priority. To address the backlog of R&A projects, we request NOA of \$692 million. The R&A program focuses on the highest priority projects based on GSA's continuing effort to evaluate and restructure our real property portfolio.

The request includes:

- \$215 million for three major modernization projects
 - \$51 million for the Eisenhower Executive Office Building in Washington, DC
 - \$153 million for the Dirksen Courthouse in Chicago, IL
 - \$11 million for the New Bern, NC U.S. Post Office and Courthouse
- \$91 million for two limited scope projects
- \$350 million for non-prospectus level projects
- \$36.6 million for Energy and Water Retrofit and Conservation Measures

To support our operating programs, GSA requests \$150 million for the Installment Acquisition Payments Program; \$4.7 billion for the Rental of Space Program, which will provide for 188 million rentable square feet; and \$2.2 billion for the Building Operations Program.

Since passage of the Energy Policy Act of 2005, numerous legislative actions, executive orders, and policies have increased the energy, water, and fuel conservation goals for the Federal Government, culminating in the challenging Energy Independence and Security Act of 2007. To address the new requirements for conservation in Federal buildings, PBS has refocused its energy program. PBS is requesting \$36.6 million for upgrading HVAC and lighting systems, advanced metering, water conservation, renewable energy projects, and many other items that will conserve energy in Federal buildings between major renovations. This request is in addition to energy conservation funds incorporated into line item Repairs and Alterations project requests.

In addition to the Energy and Water Retrofit and Conservation program, PBS incorporates many sustainable design principles and conservation measures in the design, construction, repair, and management of Federal buildings. For example, 100 percent of new construction projects in fiscal year 2007 were registered for LEED certification, which measures sustainable design and construction. Energy audits and environmental risk assessments are performed on a regular basis to determine where resources should be focused. Environmental training is provided to GSA employees and is shared with customer agencies. A commissioning program is underway to ensure that building systems are working efficiently upon completion of a construction project. These initiatives as well as other environmental measures will promote efficient energy use and environmental stewardship in the Federal inventory. These programs not only benefit the environment but, because GSA ranks projects according to life-cycle cost effectiveness and gives preference to projects with the highest return on investment, every tax dollar spent now on energy conservation and efficiency generates savings over the life of these enhancements.

As an example of some of the creative ways GSA is finding solutions to reduce the Federal Government's reliance on fossil fuels, I would point to the Denver Federal Center (DFC). This year's budget request includes funding for environmental remediation at the DFC, but GSA has a vision to make the DFC one of the most sustainable campuses in the country by 2020. A major component in attaining this vision is the DFC Solar Park. The solar park is a one megawatt system comprised of 6,192 panels located on a six-acre strip of land adjacent to Sixth Avenue – a location

visible to the thousands of commuters that travel this busy corridor every day. On December 31, 2007, construction was completed and the solar arrays started producing power and earning renewable energy credits. GSA is planning a dedication event for the solar park and I hope that members of this Subcommittee will be able to join us for the ceremony.

OPERATING APPROPRIATION REQUEST

While only \$172.9 million of GSA's proposed budget is funded through direct appropriations to GSA's operating accounts, the activities they enable GSA to perform are critical. These funds support GSA's Office of Governmentwide Policy, the Operating Expenses activities, the Electronic Government Fund, the Former Presidents, and the Federal Citizen Information Center (FCIC) Fund.

On a related matter, we are asking permission to fund all of the components of GSA's Office of Citizen Services from the FCIC Fund. This realignment would involve a transfer of funding from GSA's Operating Expense appropriation and a renaming of the fund to the "Federal Citizen Services Fund." This change will improve the budgeting and management of the Office of Citizen Services. It also more properly reflects its citizen-oriented mandate and its broad range of services available via numerous channels, including on the web at *USA.gov* and *GobiernoUSA.gov*, and through email, publications, and telephone.

The \$11.314 million net increase requested for GSA operating appropriations includes increases for the Federal pay raise and inflation, along with proposed program increases to:

- satisfy GSA's assigned role in Executive Branch emergency response and recovery activities,
- provide additional staffing and training support for the Federal Acquisition Institute, supporting all Federal civilian agency's acquisition professionals, and
- reflect for the addition of President George W. Bush to the Allowances and Office Staff for Former Presidents.

Federal Acquisition Service (FAS)

Since creating the Federal Acquisition Service from the Federal Technology Service and the Federal Supply Service in May of 2007, we have seen an increase in savings and organizational efficiencies. FAS, under the leadership of Commissioner Jim Williams, is supporting our Federal customers as the premier acquisition source in the areas of fleet management, services, supplies, and technology. We offer approximately 12 million supplies and services to our customer agencies throughout the U.S. and at worldwide locations that are strategically aligned with our military customers.

Financially, FAS is continuing to refine its resource requirements to meet the needs of its customers. As the Members of the Committee are aware, the Assisted Acquisition Service (AAS) portfolio has been operating at a loss over the last three years. These losses have been a drain on the other FAS business lines, which are all designed to

operate around the break-even point. I am pleased we are bringing this area's budget into balance without losing any employees. FY 2009 budget changes primarily consist of inflation adjustments, including the Federal pay raise, and projects required in order to maintain effective operations.

The most significant change is the movement of FTEs from the AAS portfolio to other FAS portfolios and other parts of GSA to allow AAS to reduce its costs to break even. These changes, representing about 250 personnel, are occurring without buyouts or reductions in force. I expect this realignment to be completed within FY 2008 and be fully implemented in the coming months, and I am pleased that all of this could be achieved without negatively impacting our workforce.

Another key priority for the agency is the GSA VETS GWAC, a small business set-aside contract for service-disabled, veteran-owned small technology firms. President Bush's Executive Order 13360 directs all Federal agencies to develop and implement strategies to meet a goal of at least 3 percent for participation by service-disabled veteran businesses in Federal contracting. GSA recently formed a "TWENTY-ONE GUN SALUTE TEAM" that will help GSA and other agencies achieve the President's goal. In GSA's case, this represents \$143 million going to firms owned by service-disabled veterans, and I am pleased to report that we are on target to exceed this goal in the current fiscal year.

GSA is also working with small businesses as part of the Federal Strategic Sourcing Initiative (FSSI), where 11 of the 13 businesses holding blanket purchase agreements for office supplies are small businesses, including 8(a) certified, women- and veteran-owned businesses. GSA has been on the forefront of the FSSI, working to develop multi-agency solutions for office supplies, as well as express and ground domestic delivery services and wireless telecommunications expense management (TEM) services. The FSSI solution for delivery services involves more than 50 agencies and the Government saved approximately \$16.7 million in Fiscal Year 2007 over the original GSA schedule prices. And based on preliminary estimates, OMB believes agencies can save 25 to 40 percent off their wireless bills by using the FSSI TEM solution.

As well, GSA actively encourages our Federal agency customers to buy "green" when shopping for goods, services and workspace. Through the use of a specially designed page within GSA Advantage, customers are able to shop by "Environmental Specialty Category."

This application enables customers to search for items ranging from products and services that are environmentally friendly, which contain recycled content, or which are bio-based, to name a few options. Customers are able to save time and make informed procurement decisions, as GSA has brought a wide range of products to a common procurement tool. In addition to offering environmentally friendly products, GSA also has a Multiple Award Schedule (Environmental Services, GSA Schedule 899) that is

dedicated to environmental services. This schedule provides access to services from environmental clean up and remediation, to waste management and recycling services, to consulting services.

The GSA Vehicle Leasing program (GSA Fleet), which enables agencies to fulfill their missions and meet their environmental responsibilities, is another integral component of GSA's "green" solutions initiative. Currently, the GSA Fleet contains over 70,000 alternative fuel vehicles (AFVs) that are leased to customers to meet their transportation needs. The use of AFVs across the Federal government helps to reduce petroleum consumption, introduces more efficient vehicles into the Federal fleet and reduces greenhouse gas emissions. This GSA program also helps agencies better meet the requirements of President Bush's Executive Order 13423, "Strengthening Federal Environmental, Energy, and Transportation Management."

SUMMARY STATEMENT

I began my tenure as the Administrator of General Services determined to fight against wasteful spending and duplication of costs within the Federal Government. I am still committed to ensuring that the funds entrusted to GSA, representing the hard-earned tax dollars of our citizens, are used in a prudent manner. My commitment is reflected in this budget request and in the GSA Enhancement Act of 2008, a comprehensive legislative package sent to Congress earlier this year that would improve the operations of the Federal Government in areas ranging from increased child care center flexibility to emergency leasing during disasters. My task, and the task of everyone at GSA, is to

keep building on our recent successes and fulfill GSA's mission to leverage the buying power of the Federal Government to acquire the best value for taxpayers and our Federal customers while exercising responsible asset management. Approval of our budget request for FY 2009 is a vital component in helping us achieve our mutual goal of providing the best use of taxpayer funds.

CLOSING STATEMENT

Mr. Chairman, this concludes my formal statement. I look forward to continuing this discussion of our FY 2009 budget request with you and with the Members of the Subcommittee.

SPANISH-LANGUAGE SERVICES

Mr. SERRANO. Before I begin my series of questions I had planned to ask you, I look at the presentation board you have displayed. We have some folks in this country, I would call them misguided folks, who think that English has to be the official language of government and of the country. It is, but they think it has to be made official through a law. Do you catch any flak for having information in Spanish—do you get any e-mails, people telling you not to be doing this?

Ms. DOAN. Absolutely not. This is probably one of our most popular Web sites, the GobiernoUSA.gov. When we launched it last year, it was widely praised. It is enormously popular, as you can see, from 100 million hits. This is no small achievement. I think it has been enormously successful. And I will say coming from New Orleans, where we, of course, consider ourselves a bilingual State, no problems there.

Mr. SERRANO. Right. Right. So you have not gotten any e-mails or anything of people complaining?

Ms. DOAN. Not to my knowledge.

Mr. SERRANO. That is interesting. I will show you some of the e-mail I have. But anyway.

Ms. DOAN. If I could say, this is a site designed to aid the American public.

Mr. SERRANO. We know that. Sure.

Ms. DOAN. However we can reach out to them, whether it is in English, whether it is in Spanish, that is what is important, to get that information out to them in a way that they can use it.

Mr. SERRANO. I congratulate GSA on that. It is very important.

Ms. DOAN. Thank you.

BUILDING PROJECT PRIORITIZATION

Mr. SERRANO. I would like to start with a few questions about construction and renovation of buildings. Your budget request includes \$620 million for new construction projects, over \$400 million of which is for the Department of Homeland Security. With the competing demands of other projects, such as courthouses and the headquarters for FDA, for example, how does your agency decide what project is a priority? Are the affected agencies engaged throughout the budget-formulating process, or is the decision-making process centralized at GSA or OMB?

Ms. DOAN. GSA has always tried as much as possible to follow the priorities of our customers. As you know, we are an agency who gets most of its funding from our customers using our services or our goods. So when we compile these lists, we work very closely, for example, with the Department of Homeland Security, and they identify what their priorities are. They submit them to us, and then we incorporate them, wherever financially possible, into our budget. We do the same with the U.S. courts as well as with our other government customers.

Mr. SERRANO. I see. So the decision is made in a joint effort. Who would advise you on which projects to move on?

Ms. DOAN. It is very basic, because the customers, DHS, for example, has said that having a home, a home where everyone is col-

located, is their number one priority. For example, in this year they said their number two priority is the San Ysidro, the largest port of entry in the United States. It is very easy to know where you have to go when you have a customer who identifies for you what the priorities are.

And the same is true with the Administrator of the Courts. They give us letters; we meet with them on a regular basis. Our PBS Commissioner and our Deputy Commissioner probably talk to them daily, on a regular basis, and they identify the priorities. It makes it very simple when you lay that out. At the same time, obviously we have fiscal constraints, and we have to balance those requirements within those fiscal constraints.

Mr. SERRANO. Any complaints recently about folks who feel their project should be ahead of somebody else's that you would be willing to tell us?

Ms. DOAN. I think there are always folks who would love to be able to see their project move to the top of the list. There is no denying that we have an enormous number of truly important and critical needs throughout the United States, and that is why it is so important to go to our sister agencies and rely on their guidance and advice.

REAL PROPERTY DISPOSAL PILOT PROJECT

Mr. SERRANO. Ms. Doan, I understand your budget request includes a proposal for a real property disposal pilot program. Please explain the details of this request and how it differs from other real property disposal programs requested as a governmentwide general provision, which the committee has rejected in past years.

Ms. DOAN. I think what is really important about this is that one of the things that it offers is this new authority to allow for the redeployment services to other agencies. A lot of times it seems like some of the agencies are not willing to dispose of property because it actually costs money for them to do the assessment to determine whether or not the property should be disposed of, and so perhaps sometimes these properties are lying vacant, underutilized.

This new authority allows us to provide this redeployment service, this assessment, to the agencies, and then we can then be refunded through the disposal process for any costs to do that assessment. At the same time, it also allows us to return a portion of those proceeds from the sales to the Federal Building Fund and sort of, you know, revitalize that fund, which, you know, is so critical to ensuring the continuity of all of our building projects.

So I think these two significant kinds of authorities are truly important. I really do believe that we need to look at this entire portfolio of properties that we have. As you know, there are many, many properties in the United States that have huge maintenance costs, and we want to provide class A office space, top-of-the-line office space, to all of our government customers.

Mr. SERRANO. Due to the fact the committee rejected similar proposals in the past, what would you say to the committee this year to try to convince us this time we should roll with this proposal?

Ms. DOAN. I would say that if you have not been briefed by GSA, we are happy to offer a briefing. But the needed repairs and renovations, maintenance in this portfolio is huge. We are looking at

somewhere in the neighborhood of \$7.4 billion estimated in 2007 and growing. There are many properties that are underutilized, and this is a drain both on the Federal Building Fund as well as on the American citizens who pay taxes to maintain these empty, vacant, underutilized buildings.

We have got to take a strong look and do something truly innovative to solve this problem. I think the return for the American taxpayer is huge, because when these proceeds revert back into the Federal Building Fund, we can then recycle that right back out again in new construction projects, additional renovations and alterations, or just maintenance on existing buildings. It is good for everyone.

REAL PROPERTY DISPOSAL PROCESS

Mr. SERRANO. Without mentioning a specific site that might get Members of Congress, not necessarily on this committee, to react to it, give the committee an example of a piece of property you would dispose of and how would you get rid of it. Would you sell it to someone? What do you do? Is there an auction? How does that work?

Ms. DOAN. I actually think there is a series of ways—

Mr. SERRANO. Are these post offices?

Ms. DOAN. Sometimes they are just land. Sometimes it is land, sometimes it is vacant buildings. It is a lot of different types of properties. But I think what has to happen is when you do the assessment, you decide is it better to dispose of it by—we do auctions, and, in fact, we have had several auctions in the past year where we have been happy that the return from the auctioned property is actually even higher than our original assessment. So that is one way. And that money will then—funding will revert to the Federal Building Fund.

Another way is that we could put it out for private development. It could be developed, and then after 20-plus years that property could revert back, the building reverts back, the renovated, new, brand new building could revert back to the Federal Building Fund for us, our portfolio.

Mr. SERRANO. But these were all buildings that were being used by Federal agencies at some time?

Ms. DOAN. Maybe in the very distant past, sometimes as many as 40 years ago.

Mr. SERRANO. Really?

Ms. DOAN. Many of them are very old buildings. A lot of them have serious environmental issues, maybe asbestos abatement which needs to occur, which is enormously expensive. I would be happy to follow up with you on all sorts. If you need the laundry list, we are happy to do that.

Mr. SERRANO. Okay. We would like to see that. Forty years.

Ms. DOAN. That might be a slight—they are probably going to correct me. Is it 40 or 30? Okay. It is 40.

Mr. SERRANO. More than 5.

Ms. DOAN. Oh, absolutely.

FEDERAL CONTRACTOR DATABASE PROPOSAL

Mr. SERRANO. Before I turn to Mr. Regula, I have one question in this round. The House Committee on Oversight and Government Reform is considering a bill which would require GSA to keep a database of criminal, civil, and administrative proceedings involving Federal contractors over the last 5 years. The bill is intended to give contracting officers more information when deciding on awards. Currently, does the GSA not know whether contractors are involved in criminal or civil suits when the agency accepts a contractor onto its schedules or when it awards a contract?

Ms. DOAN. I think the database proposal is one that is going to be comprehensive across the entire government. Certainly with our Schedules, our GSA Schedules as well as our Multiple Award Contracts, in the process of making the award, there is a certification process where a vendor, a contractor is required to certify that he has adhered to all the rules and regulations, has not violated any laws of that nature. And so we certainly enforce that. I believe the database proposal is much more comprehensive because we can accomplish actions across the entire Federal Government.

Mr. SERRANO. So there are moments when GSA—or you are speaking about other agencies, but GSA in particular would not know that a contractor is caught up in that situation?

Ms. DOAN. Well, I think it would be hard—and I do not want to speak out of turn. The Department of Justice has a very—they have their own rules and regulations, and many times when they are in the process of looking into a matter, we may not be briefed on it until they are very, very far along or actually ready to follow through on an indictment or something of a legal nature.

Mr. SERRANO. Right.

Ms. DOAN. So very often we simply do not know. Oftentimes we are actually instructed by them not to take action until they come to the close of their investigation. So there is this sort of a “limboland” you could almost describe it as where action may be being investigated, there may be a process happening with the Department of Justice, but we ourselves are not allowed to act on it because this is America, and you are truly, at least in contracting, innocent until proven guilty.

Mr. SERRANO. No, I understand that. But let me just close by saying this: It just seems strange to me that when a person is going to be hired by the Federal Government, as folks you have behind you that work at your agency, the background check is so serious, and yet you would think it would be the same thing for a contractor. Yet it seems that we do not know as much about them as we do about the individuals we hire, and there is my concern.

Mr. Regula.

BUILDING GREEN

Mr. REGULA. Thank you, Mr. Chairman.

And as you know, Ms. Doan, it is fashionable these days to build green. And your San Francisco building, which I was there for the dedication, is, perhaps your first venture into green building, at least on a major scale. I have two questions. One, how is it working in terms of the mission of being more efficient in fuel use, et

cetera? And secondly, what is the employee reaction to it? Because it had some unique characteristics, including requiring employees to hike the stairs a little more than using the elevators. So I would be interested in your observations, after having a year or so experience with that building.

Ms. DOAN. GSA has an incredible record actually in green buildings, and, in fact, we have one very close to here, our Census building which we opened up last year, which is a LEED-standard green building.

The San Francisco Federal Building has received enormous praise. It has won many awards. It is an interesting building because it is truly innovative. Yes, it does require the employees to take the stairs. I have not checked to see if everyone is slimmer after a year of climbing up and down the stairs, but I do believe that there has been the unintended consequence of this green building, which is pride of the Federal worker, because they see this building cited for all the awards and all the architectural magazines that featured it as the cover story. They know they are working in that building. They know it was the first of its kind. And there is a certain amount of pride that Federal workers perhaps have not had in many years of knowing that the government is actually the innovative entity. So it has actually been a great experience financially, I think, for the American taxpayer as well as psychologically for the Federal worker.

LEASE RENTAL RATES

Mr. REGULA. That is interesting. I notice you mentioned, \$7.4 billion backlog in maintenance. In theory the rents charged should be adequate to cover maintenance costs of a given building, as well as the fact that it is being occupied. Do you think rents are high enough? And do you have difficulty getting an adequate return to at least address the maintenance challenges?

Mr. DOAN. Well, rents are normally—we are actually required to have them approximate the commercial charges. But at the same time, because these are government customers, we tried to make sure that we keep it within the bounds of a fiscally disciplined and conservative approach to rent. So our lease rental rates are based on the actual lease costs plus a very, very small fee.

We have been trying to provide the rent estimates earlier, 18 months in advance, so that they can get it into the budget. But we have actually reduced the gap so that the increase in rent is actually less in this upcoming year for our customers than it has been in previous years. And there is a cost to the Federal Building Fund for that. But we are trying to help our customers conserve their valuable resources.

On the other hand, one of the things that we are trying to do is also work with receiving conditional gifts so that we are able to use these in public-private partnerships. And I believe that sort of innovative approach will help us also find new ways to replenish the Federal Building Fund.

AUTHORITY TO DISPOSE OF PROPERTY

Mr. REGULA. You mentioned a lot of unused buildings, et cetera. Do you have anything within the law that you could take a build-

ing that would be, say, in a city and provide either a transfer or a rent to another government agency, i.e., city government or local government, that they could perhaps get a better rate or a better opportunity than you might do to a commercial entity?

Ms. DOAN. We already do have that authority. And I do want to say that the legislation originally that Congressman Serrano and I were talking about was actually in that budget proposal actually was talking about other agencies having the ability to use us to dispose of the property. So we already have that authority to dispose of a property. However, as you may know, when we do go into that transfer or disposal, there is a certain hierarchy that we have to go through of offering it first to, for the McKinney Act, for the homeless.

Mr. REGULA. I understand.

Ms. DOAN. And then we have to get the exceptions. And yes, then ultimately we can share it if it is appropriate, and if price is right, with a city. There is a lot of different authorities—

Mr. REGULA. Under the right circumstances you could get less than fair market value, whatever that is, of an empty building for a local government that might be able to utilize that space.

Ms. DOAN. I am not sure about that, Congressman. I actually do not think we are allowed to get less than the assessment that we normally go in and do an assessment. And that starts at sort of like the low threshold that we have to start with. We are not allowed to sell beneath market rate. And they are going to tell me.

Okay. If you do not mind, I will just read this to you. The pilot program is very contentious in the current Congress, because it would allow candidate properties to go directly to the sale for their fair market value without being screened for other public purpose conveyances, which would be the McKinney Act. Thus, homeless providers, State and local governments, and other no-cost recipients of Federal surplus properties would not be entitled to the property until—unless they paid fair market value.

So I think there is positive and then there is maybe a slightly more contentious approach to it. I think actually what has to happen is we need to look at it on a case-by-case basis. I do not think we can cookie-cutter across the board for all property disposals.

ANTICIPATING RETIREMENT WAVE

Mr. REGULA. Yesterday we had the head of the Office of Personnel Management, and she pointed out there is going to be a wave of retirements in the next 10 years because the baby boomers will be retiring. How many employees do you have in your agency?

Ms. DOAN. We have 11,773.

Mr. REGULA. And have you taken any steps to anticipate meeting the challenge of filling these spots with talented people in the future?

Ms. DOAN. Yes. First and foremost, it is making sure that employee morale is high, and so that they want to work at GSA. And we can do that in a whole host of ways. We have put in place several innovative programs over the last 2 or 3 years, not the least of which is the most robust mentoring program that we have ever had at GSA, which we started last year, and we have just come across our first anniversary. We have an Advanced Leadership De-

velopment Program that takes someone up to an SES to encourage that growth in the management.

But a lot of it has to do with the retention of valued employees. Our student loan repayment program is really important on that. We have a student career employment program where we try to attract new people into it.

So it is both helping the exiting folks as well as, you know, growing that new generation of people in government service. And part of it actually is our One GSA, One Voice Initiative, which I have asked my folks never just say, I work for PBS or I work for FAS. Tell them the 2-minute commercial about GSA, which is, did you know that we are the largest credit card service in the world at 27 billion dollars in transactions? Did you know that we are one of the largest purchasers of environmentally, you know, friendly products for the Federal Government? Are you aware that we are the Nation's landlord? In other words, let people know, young people know, the full gamut of services and goods that GSA provides as a way to attract them into the Federal workforce.

Mr. REGULA. Well, I think you are right. I daresay that if I went down the street in a bar in Ohio and said, what is the GSA, I would be probably get very few—maybe New York would be different.

Mr. SERRANO. Good Service Award. I got it once.

BUILDING SECURITY

Mr. REGULA. Okay. One last question. In today's world, security for buildings is a tough challenge. Is your agency responsible for security; like if I go into a Federal courthouse or any building under your jurisdiction, do you provide the security, or is that up to another agency? And if you have to provide it, is this not a challenging responsibility?

Ms. DOAN. Well, most of the security is provided by the Federal Protective Service, FPS, which used to be a part of GSA, but during the organization of the Department of Homeland Security, that division got transferred to them.

But security is a challenge, and, in fact, I would say when I came on board as Administrator, that was one of the largest challenges with our relationship with the courts, because as the cost of security had increased, we were then required to pass that cost along at least in part in the rent that we then charged our customers. And, of course, those kinds of increases often make hiccups. But we are constantly trying to balance the need for additional security with the costs of the security. It is a huge challenge.

Mr. REGULA. Thank you, Mr. Chairman.

Mr. SERRANO. Thank you.

Ms. Kilpatrick.

Ms. KILPATRICK. Thank you, Mr. Chairman.

Good morning Ms. Doan. Good to see you again.

Ms. DOAN. Good morning.

FEDERAL BUILDING FUND

Ms. KILPATRICK. Last we spoke of a Federal building in my district and the needed care and all the problems. I first want to commend you and the agency for correcting much of that. It is much

better looking inside and out. Employees are more happy and more effective, I would say. So I want to thank you, first of all, for that.

Ms. DOAN. Thank you.

Ms. KILPATRICK. In looking at the Federal Buildings Fund, I notice the appropriations, some \$300-plus million, with the needed repairs that you have, and I understand that fund can be used for existing repairs and other kinds of things, along with the revenue that you receive from the tenants. Is that enough to meet the real need that you have?

Ms. DOAN. No, it truly is not. As I said, we do have an estimate of backlog of over \$7.4 billion, so obviously 350 million a year for the renovation, alteration, plus the larger identified renovation/alteration projects is probably not—obviously, we could not address it all at one time. However, I think what we have tried to do is to balance repairs, renovations on buildings with the need for some fiscal restraint, which is, I guess, what the American taxpayers, all of us, are looking to make sure our tax dollars are spent wisely. It is a constant and very delicate balance that we are always trying to achieve.

Ms. KILPATRICK. So incrementally you hope to get there?

Ms. DOAN. That is exactly what we are doing incrementally. But this is where I do believe that the new legislation that we have up requesting the ability to receive conditional gifts and to enable public-private partnerships, there are many, many groups which would love to contribute to important both historic and Federal buildings, whether it is at the land border ports of entry, it would be a way to address many of these needs.

Ms. KILPATRICK. I agree. And that is pending, I know.

PROPERTY DISPOSAL AND HOMELESS SHELTERS

The other Senate bill, 1667, the pilot project, I have some interest in that. I know the Senate acted in November. I like the amendment. I heard you discuss it this morning that some—I do not know if it is a problem or just how you make that association with homeless agencies. Can you talk a little bit about what the actual legislation says and what appears to be the problem in it, if there is one?

Ms. DOAN. I cannot truly give you the details on what—because it is all perception. This is actually, I guess, within Congress and the discussions among Members, yes, no, is this good or bad? Obviously, if it is offered, if you are sponsoring homeless shelters, you would like to make sure that homeless shelters always get offered the properties first. If you are trying to do urban renewal, you would obviously like to be able to see it go directly to the private sector for refurbishment or renewal. So I think it has to do with the different priorities and interests of the individual Members of Congress. But I would be happy to have my congressional team follow up with you or—and I could come and follow up with you also on if there were specific objections, especially if you are looking to help us on that.

Ms. KILPATRICK. I want to help you with the revenue side, first of all. So what you mentioned about the gifts, that is one part. But I see this as certainly another—

Ms. DOAN. Okay.

Ms. KILPATRICK [continuing]. With what did I write here, over 8,000 buildings, almost 9,000 buildings valued at almost \$70 billion, some of them are old and not being used for whatever reason, if we could do that in legislation—and do both of those, by the way. I am not suggesting all of it be for homeless. I think some balance would be there.

And I very much would like to meet with someone, because I think it is an important time for the agency to find additional revenue and also important for local communities, urban America as well, and the homeless population and those people who administer to them, to kind of come together and put something together. The 5-year pilot, I think, is a great way to start.

Ms. DOAN. Thank you very much.

Ms. KILPATRICK. I would like to see some movement on that.

Ms. DOAN. I would be happy to follow up with you and try to arrange a time that is convenient to you.

Ms. KILPATRICK. Thank you very much.

Mr. Chairman, I am also on Homeland Security, so please excuse me. And when I leave, it is for another committee. Please excuse me.

Ms. DOAN. I appreciate that.

Mr. SERRANO. I understand.

Ms. KILPATRICK. It is your committee, too.

Mr. SERRANO. Tell them that we are here and getting them nice buildings and stuff.

Ms. KILPATRICK. I will do that. Thank you, sir.

Mr. SERRANO. And they want a building.

Mr. Bonner.

NEW COURTHOUSE CONSTRUCTION IN MOBILE

Mr. BONNER. Thank you, Mr. Chairman.

Madam Administrator, I would like to, first of all, offer a compliment, because I know oftentimes all you hear are criticisms. My district office in Mobile, Alabama, recently made a move, and it was not into a GSA building. But one person on your staff, Barbara Dranesfield with the Federal Acquisition Service office in Mobile, was extremely helpful and professional and very easy to work with. And I want to do a shout-out to Barbara because she single-handedly ensured that our district office was up and running as soon as humanly possible. And I just think it is important to say thank you for a job well done.

Ms. DOAN. Thank you. The only thing is we have to now persuade you to move into our Federal space next time.

Mr. BONNER. I would love to have a chance to do that.

That raises my second question. I was very pleased to see the Judicial Conference include construction of a new U.S. Courthouse in Mobile among their top five projects for fiscal year 2009. Unfortunately, I was not pleased that our President did not include this project or any of the other four projects in his budget request for fiscal year 2009. Since you are from New Orleans and I am from Mobile, you can appreciate the fact the Mobile metropolitan area has recently been listed as the fastest-growing area in our country for a metropolitan community our size. So over the next 5 years, we are excited about the growth potential and the population

change, but we are concerned about the lack of ability to get this project off of a wish list into reality.

Now I am hoping that since I am a new member of this committee, I am going to be able to impress upon my good Chairman and Ranking Member that the construction of the Serrano-Regula Federal Courthouse in Mobile would be a high priority.

Mr. SERRANO. Where is this?

Mr. BONNER. Mobile, sir.

Mr. SERRANO. Mobile?

Mr. REGULA. You better learn to speak Southern.

Mr. SERRANO. I am from Puerto Rico. That is the real South.

Mr. BONNER. It is on the way home.

Mr. SERRANO. Our Southern accent is so different, it is a whole different language.

Mr. BONNER. But I am hopeful that we can have a chance to look at this before this committee. But I know you are focused on San Diego and the Los Angeles projects currently. I guess my question to you is that if funding were somehow miraculously available for the Mobile courthouse in fiscal year 2009, how soon would GSA be prepared to award a construction contract? And can we assume that GSA could award a contract in fiscal year 2009 since it has been a priority project not just this year, but for several years? Also, once awarded, how long would it actually take to build such a structure? And I know that is a question that you may not have the specific answers to today.

Ms. DOAN. I have some, a little bit of an answer to that. First I would like to say that I think it is actually a very good sign that the Mobile courthouse is actually on the priority list of the courts. As I had discussed with Chairman Serrano, that is always the first step for our customers to indicate it as a priority. Yes, I know you were probably disappointed about the fiscal year 2009, but if the funding were made in fiscal year 2009, the additional site parcels could actually be acquired, the site could actually be prepared, and GSA could probably award a design build contract by the end of 2009, fiscal year 2009, and the construction on that would probably be—it would be completed by fiscal year '13, 2013, but that is only if the funds are made available in fiscal year 2009. And then, of course, there is always escalation every year after that.

Mr. BONNER. We have artists working on the portraits of the two people for whom this building would be named already.

INCREASED CONSTRUCTION COSTS

As you know, living in New Orleans and along the gulf coast, since Hurricane Katrina, construction costs have risen dramatically. And I believe just in 1 year the request for the Mobile courthouse increased by \$43 million. Are construction costs the only reason for such a large increase? I know, or I believe I am right, that the San Diego project has seen large cost overruns as well, and I am wondering if that is due to construction cost increases or some other reason.

Ms. DOAN. From what I understand, Congressman, it is mainly due to factors that affect the construction, whether it is the labor, it is energy costs; and then it is also the actual materials, espe-

cially steel, that go into the construction. The combination of those is what has caused most of the escalation costs that you have seen.

Mr. BONNER. Last question about this is would it be possible to get your staff to provide us with a written justification for the Mobile project, since I am going to be appealing to my Chairman and Ranking Member for their consideration later this year? And since it is on the list, I was hoping I could get something in writing that could justify it.

Ms. DOAN. We would be delighted to do that.

Mr. BONNER. Great.

Mr. Chairman, thank you.

Mr. SERRANO. You are quite welcome. And the Bonner Courthouse in the Bronx is on the way.

Mr. BONNER. Thank you.

GSA CONTRACT EMPLOYEES

Mr. SERRANO. Ms. Doan, last year you testified that GSA has just over 12,000 employees. How many contractor employees currently work alongside and perform similar functions as federal civil service employees of GSA?

Ms. DOAN. I do not have the exact number, and I can follow up with you on that, but I actually do believe it is about 47,000.

Mr. SERRANO. About 47,000?

Ms. DOAN. I think that is the last number we saw.

Mr. SERRANO. And you have how many employees?

Ms. DOAN. Right now we have 11,773.

Mr. SERRANO. So you would have four times as many contractors as your actual staff?

Ms. DOAN. Okay. But they are going—what they were saying in PBS, because of construction, it is a little bit different. I can probably follow up with the exact numbers.

Mr. SERRANO. That brings up the question that we asked before about different sets of ethics rules. Do the contractor employees have to abide by the same ethics standards as your employees?

Ms. DOAN. Absolutely.

Mr. SERRANO. We all in government have to behave a certain way. Are they covered by the same rules?

Ms. DOAN. Yes. They have to be held to the same standards and, in fact, the same background checks, and the process is the same. I mean, obviously they are paid differently. They are paid by the vendor or the contractor who they are hired from. I guess the Federal employees. The construction workers, the construction workers are actually a little bit different than, say, contractors who are working doing administrative support or analytical support. It skews the numbers a little bit.

Mr. SERRANO. Okay. Because it seems strange that you would have four times the amount of your employees that are contractors. I know there are some folks in government who would like to see it that way, contracting out.

Ms. DOAN. But I do think it depends whether you are in building, you have a lot more folks working for you.

Mr. SERRANO. Sure.

Ms. DOAN. Obviously, if we were just looking at administrative function, that would be a different number. And that is why I say I could follow up with you later on.

Mr. SERRANO. Please. I would appreciate that. And I would also appreciate if you could find the one e-mail I know you got saying you have an objection to GobiernoUSA.gov.

Ms. DOAN. Okay. Did you send it?

Mr. SERRANO. No, I did not send it, but you had to have one. I mean, I get dozens.

Ms. DOAN. We will look. We will actually look, although I will tell you you cannot imagine how enormously praised and popular that Web site—

Mr. SERRANO. You are missing my point. There are still a group of people in this country who think that having government Web sites in Spanish is improper, and I am just curious as to why no one is condemning you for it. I should not have mentioned it out loud. There will be a GOPAC article tomorrow. Lou Dobbs will get you tonight.

Ms. DOAN. One thing I can guarantee you, though, is like you say, because it will be on something tonight, and there will probably be scads of e-mails tomorrow, I am sure I can probably send thousands of them.

Mr. SERRANO. It is okay. I would rather we do not have any.

COURT INVOLVEMENT IN CONTRACT AWARD

In early March, a Federal judge ordered GSA to stop work on the award of a \$50 billion contract for governmentwide information technology. The judge cited GSA failed to consistently apply award criteria when awarding the contract. What is GSA's position on the issue, and how will the court order affect the award of the contract? How does this delay impact GSA's customers? And what is the budgetary impact on those agencies?

Ms. DOAN. It obviously affects our customers, but I think we have a mitigating strategy. This was a little bit of a slightly unusual approach in that normally protests go to GAO and are resolved there. The GAO actually found that GSA had behaved properly. The protesters took it outside of GAO into the civil courts. That changed how we had to handle the resolution of this matter. The civil courts found against GSA's selection process, and what we have tried to do is come up with a resolution of this that is fair to all of the vendors who submitted bids, and at the same time is viewed as being compliant by the U.S. Courts.

So it is a slightly different way that the protester handled it, and in that case we decided what we would do is review and take a look at, in light of what the judge recommended, all 62 of the applicants. We will be using his guidance, apply that over the analysis of the bid of all 62 vendors, and remake the awards. This is a way that we can expedite it, expedite the award process, but at the same time be fair.

The good thing is that while there is impact, unfortunately, to the businesses who were waiting eagerly for the award, we do have contract vehicles in place to assist our government customers. And what I am simply trying to do is make sure that we are compliant, that we are fair, but we are doing it as quickly as possible, because

we want to make those innovative goods and services available to the government.

Mr. SERRANO. When you say 62 vendors, this was not one vendor that was——

Ms. DOAN. I am sorry, 62 vendors submitted bids. There were awards I believe, to 29 of the vendors.

Mr. SERRANO. Right.

Ms. DOAN. There were eight additional vendors who then filed protests with GAO, and who then ultimately——

Mr. SERRANO. Who did not get the contract, that is.

Ms. DOAN. Right. And then GAO said GSA behaved okay. And then they took that and they went to the civil courts, the same eight vendors.

Mr. SERRANO. And the courts said that you hadn't behaved okay?

Ms. DOAN. The courts said they were not comfortable with our evaluation process, because they thought there was a level of precision that was identified and which might be hard to justify.

Mr. SERRANO. So now you are opening up the bidding again to all 62 vendors?

Ms. DOAN. Yes, the 62 originally submitted. There is no additional cost to them outside of time. The bids will stand as is, so that it is the same level playing field. The only difference is taking the judge's guidance. We will now overlay that over the evaluation process.

Mr. SERRANO. When do you expect or feel that the decision will be made on awarding?

Ms. DOAN. I have asked them to do it as quickly as possible, but it also will be a few months. We will be happy to come and brief you on that because I know it is really important and affects many vendors.

Mr. SERRANO. And one last point on that. Is the court out of it now, or does the judge still stay involved?

Ms. DOAN. No. This is what makes it so challenging. When you take a protest into the civil courts, the statute of limitations is like actually no statute of limitations. So that is why it is so important what you do is compliant and that meets the approval of the courts. So we had to take our decision, go back to the judge, and run it past the judge and get his approval. And then we actually had to go to the Department of Justice and get them to approve also.

Mr. SERRANO. But as this process continues, are the courts still involved?

Ms. DOAN. No, hopefully that is it.

Mr. SERRANO. Okay. So now you are on your own to do it based on the decision and the agreement, if you will.

Ms. DOAN. That is what I believe, and unless someone taps me on the shoulder and tells me otherwise.

Mr. SERRANO. No, no one is getting up. No one has gotten up with any paper.

Ms. DOAN. Okay.

BUILDING VERSUS LEASING

Mr. SERRANO. In January of 2008, the GAO reported that in 2008 GSA will have more leased space than government-owned

space, and that it is more expensive in the long run to lease space rather than build. Do you believe scoring rules for operating versus capital leases force GSA into using long-term operation leases instead of new construction to meet Federal space requirements? And if you understand that question—this is one of those—I am looking at my staff. I usually review the questions. I work with them on questions.

Ms. DOAN. I am grateful for that question.

Mr. SERRANO. But I do not understand that question, and I will be the first one to admit it.

Ms. DOAN. I will tell you I am not the world's expert on scoring, and he is actually sitting right here, Tony Costa. But I will tell you that what you said is absolutely true is that it is the scoring.

Mr. SERRANO. I did? I do not know what I said.

Ms. DOAN. The challenges of scoring and trying to balance the scoring is exactly why oftentimes folks go into the leasing rather than engaging in the public-private partnerships or the design build or things that would actually save the government money in the long run. And while I do not have a lot of control over that because that is obviously in the hands—a lot of that is in the hands of Congress, I do believe that some of the things that GSA has tried to do, which is bring more oversight into the leasing process, we have pulled back on many of the lease delegations that had been provided to all of the departments, and we are trying to have our experts weigh in far more heavily to determine, because what we want to do is get people out of the leased space and into our Federal building spaces. It really is the best thing for the taxpayer and helps with the Federal Building Fund. But the scoring is really the big elephant in the room.

Mr. SERRANO. I guess, and I know this has to do with what money is available, and we are not committing ourselves to moneys we do not have, but as we look at this economy, certainly building helps the economy more than leasing.

Also on a totally different but perhaps somewhat related subject, one of my gripes in New York City is that with such a large student population, the New York City Department of Education is always looking for available space to turn into schools. And, just as an example, it is not related at all, it is so sad that these children are put into not nice-looking buildings that were never meant to be schools, and they are turned into schools, when in other communities you get a football field in the back, and you get a track, and you get this beautiful building that you have to believe the teachers feel better teaching in and the children have to feel better.

And so I am not crazy about leasing just for the sake of saving some dollars. The question is, does it really save dollars in the long run to build or to lease, aside from what it does for the economy?

Ms. DOAN. I believe one of the most important things we could do for this country, and I have actually been going around the country and talking about it, is GSA has the ability to ignite a building boom in this country. The work that we do at our land border ports of entry is just the very beginning step in that building boom, because when we do that, we go into districts all along the northern and the southern border. I am happy to say we do a lot of work in New York.

Mr. SERRANO. You say you do not?

Ms. DOAN. We do a lot of work in New York. We have several absolutely critical and huge ports of entry in New York State. But what that does is that helps the economy, because building is local, and the local citizens are the workers who are participating in those construction projects. So every dollar that we spend in building is actually a dollar that is used three times over, because, yes, it is Federal funding that builds it, but then it is the communities that benefit from it. It is the businesses who ultimately pay taxes. It is the workers who receive that funding, and then they go pay taxes. It all goes into our education system so we could build those really great schools that are exciting.

But I think what GSA is trying to do with the building boom at the borders is at least a first step to show that we have an ability to make a difference. They did want me to mention for schools, and especially maybe in New York, that we actually have a Computers for Learning program that would be something that I think New York City in particular could benefit from, which is the disposed computers, you know, computers that we dispose of in the Federal Government. And as you know, we are on a 2-year cycle, sometimes 3-year cycle, so these are actually really great systems that could go into the school system.

Mr. SERRANO. We will be glad to talk to you about that.

Ms. DOAN. And the other thing I have to—because it is once again unfortunate Congresswoman Kilpatrick left before I could pitch her one more time on St. Elizabeths—but when we start talking about the difference between leased space and building, you know, of course, that right now the Department of Homeland Security has like 60 different leases, 40 different locations. And when we have the chance to build, it is good for the government, and it is actually good for our Nation.

Mr. SERRANO. As you know, St. Elizabeths was just the victim—not just, it was the sad victim of some very serious fiscal constraints at the end.

Ms. DOAN. Yes.

FUNDING FOR CONSTRUCTION

Mr. SERRANO. Which brings me to the followup on this. Is GSA always dependent on the appropriations process, or are you looking for ways, innovative new ways, to provide for construction? And what would you need in terms of changes in law or in the way Congress allows you to function?

Ms. DOAN. Obviously, the Federal Building Fund and the appropriations we receive from you guys is simply not sufficient, although when we are trying to be fiscally conservative, we do what we can with what we receive, and we are very grateful for what we get, so please understand that.

On the other hand, right now our GS Enhancement Act that we have put forth the legislation, being able to receive conditional gifts would be a huge development for GSA because that would allow us to really do some truly innovative things and enormous goodwill in the private sector for the Federal Government. And I believe, you know, communities recognize the need. And there are many businesses as well as city and local governments that are also willing

to contribute to address these needs if we were allowed to receive those funds.

FEDERAL JUDICIARY RENTAL DISPUTE

Mr. SERRANO. Let me bring up an issue that I would put under the heading of a family fight. This subcommittee also oversees the Federal judiciary, and Federal judiciary is one of your largest rental clients and also an agency for which this subcommittee appropriates funds. Judiciary spends a great deal of time and energy on cost-containment strategies, one of which is a rental verification process. The judiciary has found that it has been overcharged in recent years due to the GSA's incorrect records of the square footage used by the judiciary.

Can you explain why it is so difficult to maintain accurate records of the space utilized in Federal buildings and courthouses? This Chairman and Ranking Member do not desire to have one member of the family get done in by another member of the family.

Ms. DOAN. First, I would like to say that was then, this is now. Our relationship with the courts truly has improved over the last 22 months. And frankly, it is because I, the Commissioner of the Public Buildings Service David Winstead, and the entire Public Buildings Service set of employees, we have made a concerted effort to make sure that we are working with this customer.

There was a problem with the rents. There is no doubt about it. But when we actually got together with the Administrator of the Courts and looked at the rents, we actually found it was located not across the United States and all the courts, as was originally thought, but actually centrally located in one region, and I think two, but maybe it was three, specific courthouses that had that issue. We have addressed that issue with them. Of course, it goes a long way if you rebate the money that was overcharged, and that helped with that relationship enormously.

But the other thing I am happy to report is that we have actually cut the rent for the courts in this upcoming year, and I think we are seeing the reflourishing of that relationship as a result of the reduced rent.

The other thing that we did was provide more transparency into the invoices that are presented to the courts. And when we itemized it, they were startled, frankly, to see that their increased demand for security actually translated to an increased cost. They had not realized that the cost of security escalated so dramatically, because, you know, obviously they had several very serious situations where judges' lives had, you know, been put in jeopardy, and they required additional security at all the courthouses. And the problem is that also costs, and that got rolled into their rent, but unfortunately we had not done a good job of explaining that to them. And when we were able to actually present them with the data and show them the breakout of where the increases came from, that also helped restore our relationship.

And I think we have a lesson that we learned at GSA from that, which is we have to be better at communicating with our customers when changes happen and notify them in advance rather than retroactively.

Mr. SERRANO. Thank you, Ms. Doan.

Mr. Regula.

PRESIDENTIAL TRANSITION

Mr. REGULA. Just a couple questions. You have an \$8 million figure for the Presidential transition. What is your role in the transition that would require 8 million?

Ms. DOAN. In the Presidential transition we help prepare for the incoming Presidential team and whoever he or she may be, and their people. And then we also prepare the exiting, the current President and his team. And they exit. And so the funding is divided between those two particular endeavors, and that is everything from they need space, obviously, because they are going to need—in the transition process the new team is going to have to work very closely with the exiting team so that we have a smooth transition for our country. Obviously, there is security. There is the—you know, the computers, the technology, everything that goes into that. And actually, what we have requested is only a very small part. We actually take a large part of that out of hide. And if you look at the second row, they are probably frowning and grimacing even as we speak, because our Federal Acquisition Service along with GSA's Chief Information Officer provides all the technology.

Mr. SERRANO. They have done that throughout the hearing. I do not think that is directed at us.

Ms. DOAN. They provide the technology, the communications, the phones, everything. We take that out of hide through the Federal Acquisition Service. So the 8.5- or whatever we are asking, that is actually only part of the price for the Public Buildings Service. Because in D.C. at least, we do not have a lot of available space. And just to be frank, over the last two decades, the space requirements have gone up dramatically. So I believe this year they need a little over 100,000 square feet. This is not a small amount to be looking for for having to pay market prices. So it is actually very costly. But we are actually eating a lot of the Presidential transition costs that you guys never see.

COST-EFFECTIVE AGENCY HOUSING

Mr. REGULA. Which do you find the more efficient way to provide housing for agencies, where you go in and build to lease versus actually owning the building and constructing and owning it as a GSA property? Which do you think is the more cost-effective way to deliver that service?

Ms. DOAN. I think it varies depending upon the location. Obviously, we are biased in favor of GSA-built buildings that are in our portfolio from day one. But I think it would be naive to think that we could satisfy all of the government's needs by pursuing only that one strategy.

And I would like to think that what we are trying to do at the Public Buildings Service is have an entire portfolio, a quiver where we have many arrows in that quiver, different ways that we approach the needs. So depending upon where the location of the building is sometimes, you know, design build is a better option, but always it should revert to the portfolio of the Federal Government.

Mr. REGULA. One advantage, of course, of build to lease is that property is on the local tax roll, which then, if I understand it correctly, would pay taxes to the schools or whatever might be the case in the local government. Is that correct?

Ms. DOAN. I think there is always a tension between when a Federal building comes in, we do not pay taxes, and obviously other entities would. But I think if you look at the broader picture for the entire Federal Government, when we have that building, and those rents go directly into our Federal Building Fund, we are then able to send them back out again in other new projects that benefit the entire country.

GSA PROVIDED FACILITY SERVICES

Mr. REGULA. Last question. When an agency, let's just take Social Security, and you are providing a facility, I am talking about a private facility, can they negotiate with you about the condition of the building and the kind of services you would provide in the building?

Ms. DOAN. They can, and they do. And the one thing that I have been working with all of our team on, and when I say team, I mean all 11,773 people at GSA, we have a new One GSA approach, which is to try to provide that very best value. Rather than just going in and only talking about the actual lease, it is much simpler for us to go in and say, oh, by the way, we can put your conduit in, we can do your networking, we can do your drops; do you need a phone system, do you need IT, carpeting, furniture. GSA provides all of that. And if we have our Federal Acquisition Service and our Public Buildings Service working as one GSA going in to the customer, that is absolutely the best value for the government customer and the best value for the American taxpayer.

Mr. REGULA. Thank you, Mr. Chairman.

Mr. SERRANO. Thank you.

DISTRICT OF COLUMBIA

Let me just interject something here. Mr. Regula and I are big fans of the District of Columbia, and this committee oversees the District of Columbia. In fact, I stated one of my roles is to undo that part of my job. I do not need to be the Governor of D.C., or the Mayor of D.C. They have a Mayor, and we are big fans of the Mayor, and we want to see him succeed and the people succeed. So we are asking every Federal agency that has anything to do with the Presidential transition to try as hard as possible to make sure it does not cost D.C. any money. They are a host city and they have not always been treated well by the Federal Government, and all these things that will be taking place. So for your role, the part GSA will play in that Presidential transition, it would make this committee very happy if it does not cost D.C. any money.

Ms. DOAN. We try to work very closely with D.C. I think we have a very positive and productive relationship. And we work with them regularly and consistently and very collegially. I think it is a very good relationship.

Mr. SERRANO. I appreciate that.

Mr. Schiff.

LOS ANGELES COURTHOUSE

Mr. SCHIFF. Thank you, Mr. Chairman.

Madam Administrator, I want to talk with you about the Central District Courthouse in Los Angeles. I understand you recently initiated discussions with the Administrative Office of Judges in the Central District about a potentially new construction proposal for the courthouse that would build a stand-alone courthouse with only 20 courtrooms and 20 chambers, and expand and renovate the existing Roybal Federal Building for an estimated cost of \$700 million.

I have not looked through a detailed report of the proposal, but I think there are serious questions about the cost assumptions in the proposal and the construction schedule. And it looks like there is at least as good a chance that the new proposal would cost more than the existing proposal that has been out there since May of 2007 to build a 36-courtroom, 45-chamber building so that we can consolidate all the courts in one building.

I spent 6 years working in that building. I know it well, at least one of the two Federal courthouses. It is in dramatic need of consolidation. And the scenario that I understand now is under consideration is very different than the one that has been under consideration for years. And I am concerned that it will not meet the courts' long-term space needs, it will not solve the operational inefficiencies that we already have of multiple facilities.

As I understand it, the new proposal is universally opposed by the judges in the Central District and does not take into account the cost of relocating, building out lease space for the Federal agencies that are currently involved that would be evicted from the building. It does not consider the difficulty of bidding two construction jobs of this size at the same time in the L.A. construction market, which is a very hot and expensive market right now.

But my most significant concern is that you could have basically a worse situation than we have now. You could have the judges and courthouse operations spread among three buildings if you are not careful. And the whole idea was to consolidate for security reasons and efficiency reasons the courts in a single building.

And so I would like to know what feedback you have gotten from Los Angeles, whether you have considered the costs of relocating these Federal agencies and multiple construction projects at the same time. And, you know, I would like to see if you could provide us for the record the cost estimates, the fact sheets and the prospectus documents that could be used by Congress to compare what we have been operating on, a 36-courtroom, 45-chamber proposal, to what I guess is being floated now.

Ms. DOAN. We are happy to provide that information.

Ms. DOAN. And as you said, there are many developments, some of which just happened a day or two ago. But I will share with you where I believe we are at right now.

I do know that there have been extensive discussions. I have been on the job for 22 months, and I can say for the entire 22 months on the job as Administrator, I have been having discussions with Chief Judge Morrow, and she has come to D.C. many times. We have been out to L.A. working with the U.S. courts. The judges,

you are absolutely right, in L.A. sent a very strong letter, I believe we got it either yesterday or the day before yesterday, opposing a letter that I had sent them the week before indicating that the courts, the AOC, the Administrative Office of Courts, and GSA have worked together very carefully to consider what would be in the best interests of the judges and their requirements, the U.S. courts, the financial considerations that have to be taken into account, as well as the timeline that we were trying to look at. And they worked together with us to come up with a proposal so that they believe—and I am now talking about the Administrator of the Courts—they believe is in the best interests of the judiciary, and that is that we renovate the Roybal existing courthouse and bring it up, take into account what the judges say, and at the same time build a second, smaller courthouse on the site that the new one—

Mr. SCHIFF. You say they have taken into consideration what the judges say. The judges say this is a terrible idea.

Ms. DOAN. No, no, I am saying taking into consideration the judges' demands for space and the space requirements. And so what has been proposed is actually the combination of the two facilities actually gives them, I believe, 70,000 more square feet of space than what they originally required. But most importantly, right now we have a requirement for over \$1.5 billion in order to complete a brand new facility. Right now only a portion of that has been appropriated, and therefore, under the rules we cannot begin any kind of construction, development, or whatever. With the way that it is right now, with the funding that has already been appropriated and with an approved plan from the U.S. courts, what we could then do is we can start work immediately on making a difference for the L.A. judges. And frankly, I think this is a situation—

JUDGES' OPINION OF NEW COURTHOUSE PROPOSAL

Mr. SCHIFF. If I could interject, this is not an approved plan by the U.S. judges.

Ms. DOAN. By the Administrator of—

Mr. SCHIFF. The judges of Los Angeles think this is a terrible idea. And, I mean, we are in a situation where for years the highest courthouse construction priority in the country has been Los Angeles. The need has been there, the security needs have been there, the inefficiencies have been there; but because there has been delay occasioned upon delay, and construction costs have gone up, that project has laid fallow while others have gone ahead. And the judges have made every effort to reduce the number of courtrooms, to share chambers, to reduce—you know, take whatever they can out of the cost of the building to bring the cost down. And after doing all that and still, you know, waiting for action here, they are now being greeted with a wholly new idea that basically makes the problem that they have now worse in the sense of they should be housed in a single building. They should not be spread out among two or three buildings.

And so I think it is a tremendous disservice to the public that has to utilize the courthouses and the jurors, and I cannot imagine the nightmare of trying to organize jury pools in three different buildings or two different buildings.

So, you know, what I would like to see is I would like to see the facts, because I do not think they are going to be borne out. I do not think you can build a whole new building and do the massive renovation of an existing building at a cost that is going to be cheaper than building one whole new building and relocating everyone into that building. That is a smaller amount of space, where you can utilize the other space for other agencies. I am not sure that all pencils out.

And what I am afraid of with this new idea being floated is it is going to mean yet another delay with dealing with this problem, rather than sticking with the concept that had been agreed on and focused on for years and reducing the cost of that by bringing the number of courtrooms down. We are going to now look at something else that is only going to cause more dissension, more delay, more costs as the delays go on. That is the concern I have.

So I would like to see the breakdown of what you think the new building costs and why you think somehow that you can do this cheaper. And take into consideration all of the peripheral costs of relocating the agencies that are there, the increased inefficiencies you are going to have of the courthouse being in two locations, maybe three, in terms of the administrative functions of the court. So I would like to get those cost figures.

Ms. DOAN. We will be happy to provide that. And in fact, I will ask our Commissioner to see if he can get Jim Duff, who is the Administrator of the U.S. Courts, to accompany us when we come up to brief you on that. That way you can hear from the courts' perspective as well as GSA.

Mr. SCHIFF. Okay. I would probably want to have the judges there, too.

Ms. DOAN. That probably would be wise. Judge Morrow comes here pretty frequently.

Mr. SCHIFF. Okay. Thank you, Mr. Chairman.

Mr. SERRANO. Thank you. I understand you have some questions for the record.

Mr. REGULA. Yes.

Mr. SERRANO. And I have some questions for the record.

Mr. SERRANO. And with that I would like to thank you for your testimony here today before us. I hope we stay in touch on the other issues and please keep the committee informed.

On a personal level, if you could supply my office, not the committee, with a listing of the properties that you have in my congressional district, either leased or owned in the County of the Bronx. So it's the 16th district in the County of the Bronx.

Ms. DOAN. I would be happy to do so.

Mr. SERRANO. Thank you so much. Thank you for being here today.

The committee hearing is adjourned.

SUBCOMMITTEE ON FINANCIAL
SERVICES AND GENERAL
GOVERNMENT

HEARING

ON

THE FY 09 BUDGET REQUEST OF THE
GENERAL SERVICES ADMINISTRATION

Questions for the Record

for

The General Services Administration

April 3, 2008

Please return to the Subcommittee on Financial Services and General Government
by April 21, 2008

**FY 2009 Budget Request of the General Services Administration
Questions for the Record
Submitted by Chairman Serrano**

Reorganization of Citizen Services Fund

The GSA budget request includes a reorganization of resources and people from the Operating Expenses account to the newly named Federal Citizen Services Fund. Please explain the reason for the reorganization and what efficiencies the agency expects to gain from this move.

GSA has requested the transfer of 35 FTE and \$18 million to the new Federal Citizen Services Fund to match the existing organizational structure of GSA. Essentially, this request would align GSA funding sources with the FY 2002 reorganization of people and programs that established the Office of Citizen Services (OCS).

In FY 2002, OCS was established to provide centralized management for all of GSA's citizen-serving programs. At that time, there was no consolidation of organizational resources. Since then, GSA has requested appropriations to the Federal Citizen's Information Center (FCIC) Fund for most citizen-facing programs, but we continued to request funding in the Operating Expenses appropriation for OCS' USA.gov Technologies, which provides infrastructure support for the USA.gov website, and Intergovernmental Solutions, which provides access to State, local and international government resources through a variety of media.

The current two-appropriation structure does a disservice to GSA and to the Committee, because it obscures the relationship between funding and performance and makes it more difficult for the Congress to make funding decisions based on the merits of GSA's programs.

The primary benefits expected from the requested transfer are increased transparency in our reporting and increased accountability in our operations. Maintaining such closely related programs in two separate appropriations obscures the relationship between program costs and program performance. The requested transfer will improve planning, budgeting and management of OCS. The requested consolidation would enhance management's ability to plan for and direct the activities of the overall organization, which will improve accountability for program delivery and funds control. The consolidation will better support the cost-effective delivery of services to citizens, businesses, and government entities, and will improve our reporting to our external stakeholders.

**FY 2009 Budget Request of the General Services Administration
Questions for the Record
Submitted by Chairman Serrano**

Computers for Learning

Please provide further information on the Computers for Learning program that the Administrator spoke of during the hearing.

The Computers for Learning (CFL) program assists Federal agencies in meeting the requirements of Executive Order (EO) 12999, "Education Technology: Ensuring Opportunity for All Children in the Next Century". EO 12999 directs agencies, to the extent permitted by law, to give highest preference to schools and nonprofit organizations, including community-based educational organizations (schools and educational nonprofit organizations) with the transfer, through gift or donation, of computers and related peripheral equipment excess or surplus to their needs. The CFL program represents an important contribution to EO 12999, which includes making modern computer technology an integral part of every classroom, connecting classrooms to the national infrastructure, providing teachers with the professional development they need to use new technologies effectively, and encouraging the use of innovative educational software.

The CFL program specifically matches the computer needs of schools and educational nonprofit organization with excess equipment in Federal agencies. Direct transfers are authorized by law through 15 U.S.C. 3710(i) commonly known as the Stevenson-Wydler Act (amended by Public Law 102-245 on February 14, 1992). It states, "The Director of a laboratory, or the head of any federal agency or department, may loan, lease or give research equipment that is excess or surplus to the needs of the laboratory, agency or department to and educational institution or nonprofit organization for the conduct of technical and scientific education and research activities. Title of ownership shall transfer with a gift under this section." Legislative history discussing the intent of Title 15 includes computers as research equipment.

Detailed information regarding the program and success stories can be found at: <http://computersforlearning.gov/>

**FY 2009 Budget Request of the General Services Administration
Questions for the Record
Submitted by Chairman Serrano**

Working Capital Fund

GSA uses a Working Capital Fund to centralize and pay for certain agency-wide support activities. Many people would think this is not under our jurisdiction because it is not directly appropriated, but I think our oversight of this account is very important since the agency taps into appropriated accounts to pay for the Working Capital Fund. It is important to this subcommittee that there is full transparency in how appropriated funds are used. A fund like this sometimes muddies this transparency. Please explain how you decide what is paid for out of the Working Capital Fund.

The Working Capital Fund (WCF) is a fully reimbursable revolving fund that economically finances centralized internal and other reimbursable administrative support services to GSA and other Federal organizations.

The WCF finances administrative support services that benefit all GSA programs, and are more cost-effective to provide centrally than to divide across multiple functions and appropriations. Administrative support services include accounting, budget, personnel, legal support, information technology and acquisition policy. GSA determines whether an administrative support service is a legitimate use of the WCF by assessing the scope of the service. If the service provides benefits to GSA only, WCF funding is used. If the service provides benefits to a customer base that is government-wide or the general public, then appropriated funding is used.

The Administrator of General Services with the advice of the Chief Financial Officer and General Counsel, and the consent of the Office of Management and Budget (OMB), has determined that the following programs are appropriate to fund from the WCF.

Centralized Administrative Support (CAS):

Chief Acquisition Officer
Chief Financial Officer
Chief Information Officer
Chief Human Capital Officer
Office of General Counsel
Office of Citizen Services and Communications
Office of Small Business Utilization
Office of Civil Rights
Office of Performance Improvement
Office of Emergency Response and Recovery
Office of Management Services

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Other Reimbursable Support (Internal and External):

Centralized Information Technology Infrastructure support provided by the Chief Information Officer through *Infrastructure and Operations (IO)*.

Centralized Charges (CC) pays fees or expenses on behalf of the entire agency. Examples of Centralized Charges include unemployment compensation, worker's compensation, implementation of Homeland Security Policy Directives (e.g., HSPD-12), postage, and the GSA management intern program.

External Reimbursable programs financed through the WCF provide administrative services similar to those described in the Centralized Administrative Support (CAS) section below, but for agencies and commissions external to GSA. Customers include small agencies, Presidential commissions, House and Senate offices, and the Inspector General Criminal Investigations Academy.

Major Equipment Acquisition and Development provides for major acquisitions of computer software applications.

Please explain how the costs are shared across the agency.

The budgeted costs of Centralized Administrative Support (CAS) and IT Infrastructure and Operations (IO) programs are distributed using the most equitable and efficient manner available. When a program produces outputs or has some other workload indicators that can be attributed directly to specific customers, budgeted costs of that program are allocated across the agency based on usage. For example, the operating costs of financial systems are allocated based on the number of transactions executed in the system, by GSA component organization. When program costs cannot be directly attributable to customers, the program budget is allocated based on budgeted FTE levels in GSA component organizations.

Centralized Charges (CC) rates are developed by estimating the cost of individual centralized charge programs, which are mostly bills to the Agency. The total cost is then allocated to the GSA Services and Staff Offices based on factors applicable to the specific charge. If there are no factors or supporting data to assign costs for a specific charge, the charge is distributed based on budgeted FTE.

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Green Government

- 1. What steps will GSA take in FY 2009 to increase its use of renewable energy sources in Federal buildings, leased facilities, and fleet operations?**

Federal Buildings and Leased Facilities:

In FY 2009, GSA expects to purchase approximately 115,000,000 kWhs of renewable power in its deregulated energy procurements for GSA-owned buildings and an additional 85,000,000 kWhs for non-GSA facilities. GSA will purchase at least 3% of our total consumption needs from renewable power sources during FY 2009. In FY 2009, GSA will install on-site renewable generation resources on existing GSA buildings where feasible and incorporate such on-site renewable generation resources to the maximum extent practicable for new buildings.

Year	GSA Buildings	Non-GSA Bldgs.	Total
2006	75,000,000 kWhs	15,000,000 kWhs	90,000,000 kWhs
2007	110,000,000 kWhs	83,000,000 kWhs	193,000,000 kWhs
2008(est)	111,000,000 kWhs	84,000,000 kWhs	195,000,000 kWhs
2009(est)	115,000,000 kWhs	85,000,000 kWhs	200,000,000 kWhs

GSA is currently examining wind power options for land ports of entry in Texas. We have recently installed solar power that is cost effective in Waltham, MA, Denver, CO, and in locations in California and New Jersey.

Fleet Operations:

GSA has purchased over 170,000 Alternative-Fueled Vehicles (AFV) and Hybrid-Electric Vehicles (HEV) for Federal Agencies since 1991, of which 143,000 have been for GSA's Fleet. GSA has ordered over 29,000 AFVs and HEVs for FY 2008, of which over 22,000 are for our own Fleet. GSA has worked cooperatively with the Department of Interior's National Park Service to establish AFV-based mass transportation systems in our National Parks, and we plan to continue these efforts in FY 2009.

GSA's Fleet and Automotive Divisions will continue to educate Federal customers on the importance of "greening" their fleets and will provide tools to track fuel usage, vehicle locations, and alternative fuel pump locations. GSA will also continue our successful partnerships with the Department of Energy, the National Renewable Energy Laboratory, the National Ethanol Coalition, Clean Cities, and other key stakeholders to identify areas where alternative fuel pumps are needed.

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2. What steps will GSA take to help tenant Federal agencies and Federal customers of the Federal Acquisition Service reduce energy consumption and “buy green”?

Tenant Federal Agencies:

- **Customer Outreach:** GSA communicates directly with employees of tenant agencies on reducing energy consumption in Federal buildings through e-mail, energy awareness campaigns and/or signage in the Federal building.
- **Customer Outreach:** GSA Facility Managers continuously identify actions that both we and our customers can do to save energy, including:
 - Turning off perimeter units, lights and office equipment at the end of the business day;
 - Eliminating the use of space heaters;
 - Eliminating some non-essential 24 hour equipment operations;
 - Lighting retrofits;
 - Adjusting lighting control systems to match the needs of the tenants;
 - Replacing exterior and emergency lights with LEDs (Light-Emitting Diodes); and
 - Replacing gas engines with electric motors.
- **Energy Tracking:** Energy consumption is tracked and reported monthly for every GSA facility. Our system provides the status of energy trends as they relate to past or future building activities that affect energy consumption. This allows us to target opportunities for operations improvement or energy retrofits—as well as to understand those trends and compare our performance to similar buildings in our inventory and with that of the private sector.
- **Retrofit and Renovation Projects:** When GSA plans a renovation, energy retrofit, or building modernization, the project team engages the tenants in planning for potential changes as a result of the capital investment. Tactics that make a considerable impact with regard to saving energy include:
 - Consolidating equipment (like servers) needing extra cooling into adjacent areas.
 - Replacing old hot water heaters with tankless units—energy is saved by eliminating the need to keep a reservoir of water hot.
 - Building walk-through with tenants to develop joint lists of possibilities for changed operations.

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Federal Customer of the Federal Acquisition Service:

GSA's Federal Acquisition Service (FAS) continually updates contracts and item purchase descriptions to ensure that vendors offer green products that meet affirmative procurement requirements. The GSA Multiple-Award Schedules program gives agencies access to hundreds of "green" products and services to minimize environmental impacts. Industry partners will be required to highlight products that have environmental attributes, such as recycled materials, in their offers, commercial pricelists, catalogs and brochures, and online products websites, and electronic data submissions to GSAAvantage[®].

FAS also has a major environmental operational project underway to implement Section 104 of the Energy Policy Act of 2005. Consistent with the Act, FAS will ensure that ENERGY STAR[®] and Federal Energy Management Program (FEMP)-designated products are clearly identified and displayed in our catalogs.

In FY 2007, FAS issued a detailed green purchasing plan and resource guide that directs its employees to meet mandatory green purchasing requirements. Also, it is our intent to offer green acquisition training to FAS employees and customer agencies in addition to offering training information to industry partners by late FY 2008. The FY 2008 GSA Expo will highlight green products offerings and offer 16 different environmental training courses. FAS plans to continue these efforts in FY 2009.

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Reprogramming of funds

Over the past five years, the Committee has approved more than \$600 million in reprogrammings for capital projects in the Federal Buildings Fund. What factors are causing projects to exceed the original funding requests?

Since FY 2003, GSA has delivered capital projects totaling \$6.5 billion. Managing a capital construction and repairs and alterations program of this scale is a complex undertaking with many unforeseen conditions. GSA performs proper due diligence to mitigate all known and foreseeable risks at project inception and at discrete intervals throughout the project, but there are numerous factors that influence schedule and cost, and cannot be easily predicted.

In particular, the market for construction materials and labor has experienced cost increases far above ordinary inflation. Since 2001, construction prices have increased at an average of twice the Consumer Price Index growth rate. The rise in costs is largely caused by rapidly escalating steel prices, global market pressures (significantly increased construction activities in India and China), and a continued strong domestic construction market. Fluctuations in commodities such as petroleum and petroleum-based products also add to the volatility in pricing. Subcontractors bidding work are often required to predict the cost of materials years in advance.

At the same time, labor costs increased due to greater competition for skilled construction workers. In several markets, subcontractors have more work than they can handle. Other agencies involved in capital construction have shared this experience: The Department of Defense, the U.S. Postal Service, and many State and local entities have experienced more "bid busts" as a result of these market conditions. The volatility of market prices and the abundance of work lead to a shortage of responsive bidders and a lack of adequate competition, making it increasingly difficult to plan and execute projects within budget.

What is GSA doing to reduce the need for these reprogrammings?

GSA continues to work on reducing future escalations. This is particularly true for projects that were planned, funded, and designed in the past few years before the magnitude of market volatility and material cost escalation was understood. These projects likely do not reflect reasonable funding estimates considering today's environment. As GSA works to develop upcoming project requirements, staff will continue to look for alternatives to manage the projects in this emerging global market.

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GSA is taking the following measures to avoid or limit project escalations in future years:

- Established an industry council of leading contractors, design builders and architect/engineers to serve as advisors to GSA. This council recommends process improvements to reduce cost, improve cycle time and increase customer satisfaction.
- Developing improved delivery methods to fast track design and construction activities. By reducing the delivery period, we expect to minimize cost escalations by reducing the pricing risk for the subcontracting community.
- Examining building types (courthouses, land ports of entry, Federal buildings, and modernizations) for cost reduction opportunities with our customers. For example, in the Land Port of Entry program, we are exploring leveraged purchasing of standard products and systems to achieve volume discounts.
- Employing Building Information Modeling (BIM) technologies for greater accuracy in meeting project space requirements and energy modeling. This technology can help us allocate and design space consistent with the space contemplated in the prospectus.
- Hiring in-house expertise and consultants to further develop cost estimating and market analysis. GSA plans to conduct project-specific market analysis to more effectively evaluate local market conditions.

Does GSA have any planned reprogrammings that will come to this Committee in the next six months?

Yes, GSA intends on submitting a second reprogramming request.

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Contract Employment

Last year, you testified that GSA has just over 12,000 employees. How many contractor employees currently work in space alongside of, and perform similar functions as, regular civil service employees of GSA? Please specify numbers of contract employees in headquarters and regional offices versus construction contractors.

Based on the most current data available, there are an estimated 2,189 contractor employees working alongside of GSA employees. Approximately 1,255 or 57% of these contractors reside in headquarters and the remaining 934 or 43% are located in regional offices. Estimating contractor counts is a challenging task because GSA's performance-based contracts frequently mandate a firm, fixed price and discrete performance metrics, without requiring labor reporting. Many contractors are part time in nature, and can be rapidly added or removed from a task or contract, as needed to meet defined milestones within contract deadlines.

An additional 50,000 building support and construction contractors work in Public Buildings Service locations across the country.

How much did GSA spend on contractor employees in fiscal year 2007? Please include contract support/administrative costs in addition to direct contract costs.

GSA spent approximately \$236M in FY 2007 on contract labor; this includes the direct costs as well as contract support/administrative costs. This assumes a nationwide average annual cost of \$108K per contractor for direct and support/administrative costs, multiplied by the estimated number of contractors above.

What steps has GSA taken to ensure that contractor employees follow ethical standards that are at least as strong as the standards and laws that govern Federal employee conduct?

GSA takes an active role to ensure that contractor employees performing duties on behalf of the agency follow ethical standards. GSA has implemented the recent Federal Acquisition Rule FAR 2006-007, Contractor Code of Business Ethics and Conduct. All Federal and contractor employees are required to take the same annual training courses in privacy and security awareness. In addition, each Federal and contractor employee must also be adjudicated through the same Homeland Security Presidential Directive-12 (HSPD-12) credentialing process prior to being granted access to Federal computer assets, data and facilities.

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Sole Source Contracting

For fiscal year 2007, did GSA enter into contracts that were not fully and openly competed? If so, what were the reasons for entering into such contracts?

Yes. The following reasons were identified for restricted competition contracts:

- Authorized by statutes
- Directed to JWOD Nonprofit Agency
- Follow-on Contract
- International Agreement
- Below Micro Purchase Threshold
- Mobilization, Essential Research and Development
- National Security
- Only One Source
- Patent/Data Rights
- Public Interest
- Simplified Acquisition Procedures-Non-Competitive
- Standardization
- UNICOR
- Unique Source
- Urgency
- Utilities FAR 41.2

What is the total amount of money spent on such contracts?

Contracts awarded in FY 2007 that were not fully and openly competed totaled \$579M.

Were there contracts entered into during 2007 that were open to a competitive process but where there was only one respondent (the eventual awardee) to the solicitation? If so, please provide a list of these contracts, including their cost.

Yes. GSA has identified 10,353 contract actions in FY 2007 that were open to a competitive process but had only one respondent. The total of these contracts was \$153 million. A list has been provided as a separate attachment.

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National Broker Program

GSA recently announced the addition of an Office of Real Estate Acquisition to handle long term strategic real estate issues. One such issue is the National Broker Program for leasing space. Now entering its fourth year, can you comment on performance measures the agency uses to assess the efficiency of this program?

GSA's National Broker Contract consolidates private sector leasing support among four commercial real estate service firms. This contract enables PBS to leverage the expertise of private sector brokers to increase our capacity to achieve the best value in the marketplace. It also helps us standardize leasing practices nationwide and provide more support to our customers. With each year of the contract, its usage increases. Performance measures for the National Broker Contract (NBC) are:

1. Assisted lease costs relative to the market costs

GSA expects better rental rates for our customers from the NBC contractors due to the fact their future work with GSA is dependent on their performance on each individual project. One of the performance criteria we will monitor is the rental rates they negotiate.

Through the first quarter of FY 2008, NBC rental rates are 11.46% below the market overall, in leases where the landlords have finished the space and the government has occupied.

2. Commissions and credits received or earned through February 2008

Under the NBC contract, the National Brokers collect their fees in commissions from the landlord. NBC brokers collect the commissions they negotiate with the landlord minus a pre-priced percentage of the commissions, which are applied directly to the Federal tenant's rent.

Through February 2008, commission credits back to the government have saved our tenant Federal agencies \$26.8 million in rent costs, or 1.3% of the value of the leases. Through February 2009, gross commissions earned by NBC contractors were \$69.8 million, 3.4 % of the value of leases.

3. The Brokers' performance is also measured for each task order on a quarterly and annual basis with respect to technical quality, documentation quality, timeliness and responsiveness. Broker performance has improved over the course of the contract and each broker is performing at a satisfactory level.

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Federal Citizen Services Fund, Aggregate Expenditure Limit

Last year, this Committee approved an aggregate spending ceiling greater than the level requested in the FY 2008 Congressional Justification. The Committee provided a higher cap in part due to the exigency of the need related to 1 800 PASSPORT call volumes, but also based on GSA's promise to permanently reduce flow-through transactions by increasing the use of direct citations of customer funds. What steps has GSA taken to fulfill this promise? What impediments or barriers has GSA encountered in transitioning to direct citation?

When Congress established the Federal Citizen Information Center Fund (Public Law No. 98-63), it included an aggregate ceiling well in excess of planned spending to provide essential flexibility for the Fund. Over the years, this flexibility has enabled the Office of Citizen Services (OCS) to provide a greater level of service to customer agencies by initially incurring costs and later receiving reimbursement from the customer agency. However, the 2007 spike in calls to the National Passport Information Center (NPIC) created the possibility of exceeding the aggregate spending ceiling. OCS moved quickly to establish a process whereby we continued to provide the vital telecommunications support needed by the NPIC but the Department of State was billed directly by GSA's Federal Acquisition Service (FAS), instead of routing charges through the FCIC Fund. This process has worked well and we plan to continue it as agencies move their telecommunications from the FTS 2001 contract to the new Networx contract. Internal GSA discussions are ongoing to ensure a smooth transition.

With the March 2008 award of USA Contact, the new contract for contact center services, OCS has set the use of direct fund citations in task orders as a primary objective. The first task order issued under the new contract directly cites the customer agency's funds. This is the model GSA and OCS will follow for future task orders and we fully intend to use direct citation whenever we fulfill an agency's contact center needs through our contracting vehicles.

However, even with the emphasis on using direct citations on task orders, it is important that the Fund retain an aggregate spending ceiling in excess of planned spending. This would allow GSA to provide service during emergency situations that may disrupt the normal functioning of a customer agency. This occurred when we set up contact center services in the aftermath of Hurricane Katrina even when FEMA was unable to provide a direct fund citation in a timely manner.

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Reimbursable obligations have increased in this Fund from \$6.2 million in FY 2005, to \$8.8 million in FY 2006, and \$13.9 million in FY 2007. The FY 2009 Congressional Justification shows reimbursable obligations leveling off at around \$10 million in FY 2008 and FY 2009. When can this Committee expect to see the effects of increasing the use of direct citation of funds?

The forecast of \$10 million for future-year reimbursable obligations will not be significantly impacted by the increased use of direct agency fund citations. The impact of this change in procedure is already reflected in the in the FY 2009 President's Budget, where reimbursable obligations are reduced from \$13.9 million in FY 2007 to \$10 million in FY 2008 and FY 2009. The impact of this change is limited, because it applies only to task orders against USA Contact, and not all reimbursable services provided by the Office of Citizen Services (OCS).

The reimbursable obligations estimated for FY 2008 and FY 2009 represent services provided to agencies by the National Contact Center and the publication distribution facility in Pueblo, CO. Agencies use these reimbursable services on an ongoing basis under the Economy Act, because OCS is able to provide them at a favorable cost. Unlike work done under USA Contact, these reimbursable services do not require the issuance of task orders and the workload and dollar amounts are stable and predictable from year to year. Under these agreements, OCS bills agencies for all services provided and agencies reimburse the FCIC Fund. OCS bills agencies for these services based on the volume and costs for telephone, e-mail and publication distribution.

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Acquisition Services Fund (ASF), Revenue Projections

What methodology does GSA use to project ASF revenues and costs of operations for the budget year (2009)?

GSA and the Federal Acquisition Service (FAS) project revenues using historical trends, then modify these estimates to accommodate new programs or sales leads. Projecting revenue is a significant challenge because outside factors such as wild fires and the war effort can have significant impact on ASF revenues. We continue to look for additional methods and leading indicators to help improve forecasting accuracy.

Costs of operations are also projected in two steps. First, FAS assesses on-board or steady state requirements with inflation and the overall direction of the program. Next FAS considers proposals for new projects to improve performance, reduce risk, or assist customers. These projects are assessed considering the needs of the organization, our customers, and the impact on the bottom line.

GSA uses the Performance Management Process to develop the future-year estimates of revenues and costs that are reported in the Congressional Justification. As part of the process, FAS performs an assessment of past performance and identifies any known or expected changes in the internal or external operating environment. The resulting strategic assessment leads to budgetary input. This input and associated plans are reviewed by senior leadership and approved based on the needs of the organization, our customers, and the impact on the bottom line. In addition, GSA performs a capital review to identify long term needs that may need to be funded through revenue.

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How do projected increases in FY 2009 revenues over FY 2008 relate to discretionary budget authority requested for your customer Federal agencies in the President's budget?

Discretionary budget authority is a factor in ASF revenue projections. Analysis of trends in customer orders for services show the strongest statistical relationship to discretionary spending. However, discretionary budget authority is rarely the driving factor in plans or actual results. Specific events (e.g., wildfires, war, disasters) as well as policy decisions (e.g., DoD's interagency contracting policy) tend to be greater factors in plans and actual results than discretionary authority by itself. The minimal revenue growth reflected in the FY 2008 and FY 2009 plans reflect these trends, as well as inflation, customer feedback, and a moderate decrease to discretionary spending.

Increases to ASF revenues are typically the result of FAS capturing business that was going to a different source in the past and not necessarily an increase in to discretionary budget authority.

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GSA's last three Congressional Justifications reported the following trend in revenues for the ASF: FY 2005 actual, \$10.441 billion; FY 2006 actual, \$9.285 billion; FY 2007 actual, \$8.885 billion. The FY 2009 Congressional Justification projects increased revenues in FY 2008 and 2009:

What are GSA's assumptions behind the increases assumed for the next two years?

The primary reason for the decline in revenues over the past few years is the loss of business in the Assisted Acquisition Services (AAS) portfolio. The FY 2008 and FY 2009 revenue projections assume that AAS business volumes have stabilized and the remaining components of FAS will grow by inflation on the cost of the goods and services sold to customers in FY 2007. The year-over-year growth in sales from FY 2007 to FY 2008 is about one percent, and from FY 2008 to FY 2009 is about 2%.

Our AAS stabilization assumption considered the AAS ordering activity at the conclusion of FY 2007, and specific and significant sales leads with:

- Existing orders transferred from the Department of Commerce as part of the transfer of their COMMITS Government-Wide Acquisition Contract (GWAC) to GSA.
- New interest and discussions with large Federal customers.

GSA will continue to monitor AAS ordering activity as a leading indicator to revenue.

What assumptions has GSA made regarding changes in Federal spending and agency budgets?

In the short term, FAS has not made any specific assumptions regarding changes in Federal spending and agency budgets. The majority of products and services provided by FAS are recurring or consumable commodities or on-going commercial services.

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Acquisition Services Fund, Assisted Acquisition Services

What is the general trend in business volumes in Assisted Acquisition Services?

From FY 2005 through FY 2007, Assisted Acquisition Services (AAS) saw a downturn in business volumes. We believe AAS business has stabilized, and AAS has opportunities to recapture lost market share. However, currently we are seeing contrary indicators regarding the direction of AAS business. Through February 2008, AAS revenue is above plan, while ordering activity is below last year's levels for the same time period.

We continue to monitor AAS ordering activity as a leading indicator to revenue. In addition, we communicate regularly with the program and customers. Demand for the acquisition related services provided by AAS remains strong, and we continue working with customers to provide the service in the most effective manner.

What additional actions will GSA take if business volumes continue to fall in this portfolio?

The FY 2009 Congressional Justification reduces the Assisted Acquisition Service (AAS) by 250 FTE, through attrition, organizational reassignments within the Federal Acquisition Service (FAS) and priority placement opportunities in vacancies across GSA. As a result, AAS resources are more aligned with the projected revenue and ordering activity. At the same time, metrics have been developed to guide resource decisions in AAS.

The ASF as a whole remains in a strong financial position. Currently, the Federal Acquisition Service as a whole is well below its FTE targets and, should AAS revenue continue to decline, FAS can continue placement of AAS personnel in other parts of the organization. In addition to the realignment of FTE, FAS will continue to consolidate office space and systems in order to reduce costs for the portfolio.

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Acquisition Services Fund, Federal Acquisition Service

What is the status of the FAS organizational implementation?

The Acquisition Services Fund (ASF) was established by GSA on January 1, 2007. GSA fulfilled all of its labor negotiations under its national agreements as of April 3, 2007 in regard to launching the organization design.

The Federal Acquisition Service (FAS) officially launched on May 1, 2007. Many management efficiencies have been achieved since this date. FAS has consolidated strategic planning and business improvement functions in one organizational unit for increased focus on planning and a more robust focus on business process improvement. FAS is continuing to refine the organizational design and is in the process of clarifying roles and responsibilities, integrating systems, and refining processes to improve service to customers.

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Acquisition Services Fund, Alliant Contract

What is the impact of the recent findings of the U.S. Court of Federal Claims regarding the award of the Alliant government-wide acquisition contract?

The primary impact is a delay in the award of Alliant. FAS will redeploy existing resources to re-evaluate proposals consistent with the guidance of the court.

How far behind schedule is this project?

The project is currently eight months behind schedule.

How does this recent setback impact revenue projections in the FY 2009 Congressional Justification?

Current revenue projections remain unchanged. Alliant is a successor to existing GSA Government-Wide Acquisition Contracts, and these contracts will remain available to customers until Alliant can be awarded. Therefore, GSA does not expect a significant impact on ASF revenues.

How does this delay impact GSA's customers, and what is the budgetary impact on those agencies?

Customers should not experience significant impacts, budgetary or otherwise, as a result of the delay in awarding Alliant. Alliant is a successor to existing GSA Government-Wide Acquisition Contracts, and these contracts will remain available to customers until Alliant can be awarded. Therefore, we do not expect significant customer impact.

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Acquisition Services Fund, FY 2007 actual results

The 2008 Congressional Justification projected FY 2007 net operating results of \$671 thousand, but the FY 2009 Congressional Justification reports actual results of \$103 million.

What is the cause of this large variance?

Cost reductions through attrition and project deferral were the single greatest contributors to the variance (more than \$80 million in cost savings). Revenue coming in over plan also contributed, but to a much lesser extent. FAS has maintained a hiring freeze to meet its FTE targets and to assist with the placement of Assisted Acquisition Service (AAS) employees to other parts of the organization. Although the variance in FY 2007 is substantial in absolute dollars, it only represents just over one percent of ASF revenues for that year, and is near break-even on a \$9 billion fund.

What does GSA plan to do with this surplus?

Consistent with Public Law 109-313, the GSA Modernization Act of 2006, GSA has prepared a Cost and Capital Plan detailing the long-term capital requirements and other operating needs of the Fund. Our current cost and capital plan calls for the use of: \$18 million to expand the GSA Fleet by purchasing non-tactical vehicles to be leased to the Army; over \$8 million of support to the Presidential transition process, funded by ASF net operating results; \$5 million to be used as a reserve for regional telecommunications transition to a new contract; and the balance will be retained to augment the corpus of the Acquisition Services Fund (ASF).

The corpus of the Fund provides cash reserves to offset daily operations of the revolving fund. Cash reserves enable the Federal Acquisition Service to incur obligations against its own authority when procuring goods and services on behalf of customers. Cash reserves are replenished when customers receive the goods and services and remit payment to FAS.

The cash reserves that were transferred into the ASF from the legacy Information Technology Fund and General Supply Fund were not adequate to support current operations and meet the future needs of customers. Adequate cash resources are defined as five to ten percent of sales, excluding cash reserves for specific items, such as the Networx transition and replacement cost pricing for new vehicles. This level of cash is necessary to support bulk buys, which require substantial cash outlays to secure the best prices for our customers.

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How much was returned to the Treasury?

No funds were returned to Treasury in FY 2007. Consistent with our Cost and Capital Plan, the balance of ASF FY 2007 net operating results were retained to increase cash reserves, restore the corpus, and improve the financial position of the Fund.

When in FY 2007 did GSA first determine or estimate that it might generate such a large surplus?

During the spring of 2007 we began forecasting a surplus in excess of our plan.

What steps did GSA take, including reducing fees, to mitigate such a large surplus?

Because the majority of the surplus was generated through cost reductions and project deferrals, no specific action was taken to reduce the surplus.

Does GSA expect a similar, substantial variance in FY 2008?

GSA is currently forecasting a surplus in excess of plan. We are currently assessing our cash, budgetary, and investment needs for FY 2010. Once this review is complete and the final surplus known, a decision will be made regarding the best use of available funds. It is likely that FAS will use some or all of the funds to strengthen its cash position, and update aging infrastructure that has been deferred in past years.

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Real Property Pilot Programs

Please explain the details of the GSA request for a real property pilot program, and how it differs from the other real property disposal program, requested as a government wide general provision, which the Committee has rejected the past few years. Please explain the differences and merits of each proposal, including general examples.

Section 525 of GSA's Administrative Provisions proposes the revision of title 40 of the United States Code to allow GSA to conduct real property "redeployment services",

GSA believes agencies are unable to devote financial resources to determine whether property should be retained and reused or reported as excess or surplus. GSA is capable of providing this service, but we lack the legislative authority to provide this type of service to other agencies until a specific property has been reported by an agency as "excess". Section 525 would allow GSA to enter much earlier in the process, and actually assist agencies to assess their real property portfolios and determine whether a property or properties should be retained or put through the disposal screening process. The provisions would also authorize GSA to recoup costs from the proceeds of any eventual sale resulting from GSA "redeployment services".

This provision would allow agencies to identify excess property earlier, accelerate the disposal process, and improve their property utilization rates without an increase in the agencies' or GSA's appropriations. This provision allows Federal land-holding agencies to focus on their core missions, and helps GSA to deliver on our core mission of delivering best value solutions to taxpayers and Federal customers.

Section 525 is unrelated to OMB's Federal Real Property Disposal Pilot Program, which appears as Section 735 of the Government-wide General Provisions of the President's FY 2009 Budget. The Pilot Program would allow landholding agencies to retain 20% of the revenues from the disposal of selected properties. The Pilot Program would also allow agencies to dispose of properties without being screened for other public purpose conveyances.

**FY 2009 Budget Request of the General Services Administration
Questions for the Record
Submitted by Mr. Regula**

Repairs and Alterations (R&A)

The FY 2009 budget requests \$692 million for repairs and alterations, this is even less than requested in FY08.

1. What is the current size of the repairs and alteration workload backlog?

According to GSA's Physical Condition Survey data, the FY 2007 repairs and alterations liability is approximately \$7.4 billion.

2. Does the level of funding requested for Repairs and Alterations for fiscal year 2009 provide sufficient funds to reduce the backlog of projects contained in your inventory and appropriately maintain Federal buildings? How much will the backlog be reduced, given the request level of funding?

GSA's FY 2009 budget requests funding for those projects that have the greatest physical urgency and can be completed under existing market conditions and with the project management resources available. GSA's request reflects our commitment to addressing our R&A backlog, but balances those requirements against resource needs in New Construction, Leasing, and Building Operations. This budget request strikes a balance between those competing needs, in a fiscally responsible manner. The funds GSA has requested for R&A will allow the agency to slow the growth rate of reinvestment liability and perform cyclical maintenance activities.

In addition, PBS is addressing our liability through an asset management strategy focused on concentrating reinvestment in core assets, disposing of underutilized assets, and depositing disposal proceeds into the Federal Buildings Fund. PBS is also strategically pursuing outleases, exchanges, and Energy Savings Performance Contracts (ESPCs) and Utility Energy Savings Contracts (UESCs) to increase revenue, leverage equity, and fund improvements to buildings that increase energy conservation. Despite our best efforts, our liability for reinvestment is growing faster than our ability to fund infrastructure improvements.

**FY 2009 Budget Request of the General Services Administration
Questions for the Record
Submitted by Mr. Regula**

Question on Border Points of Entry

I understand GSA owns and maintains almost 100 of these land ports and the Department of Homeland Security is, more often than not, the sole occupant. I think it is well known that these ports of entry were designed for commerce, not security. In addition, many of the larger ports of entry are far exceeding their designed capacity due to the growth in trade and development around the ports. There has been talk of transferring ownership and maintenance responsibility to DHS, in hopes of creating construction and operational efficiencies.

- 1. Could you comment on the total cost the Administration expects to face this year and in future years to expand and improve the ports of entry?**

As of FY 2009, DHS has identified a remaining financial need of \$4.3 billion to meet the expansion and improvement needs of land ports of entry. At an annual average funding level of \$500 million, it would take until 2017 to complete necessary work at all ports of entry.

- 2. How does the GSA negotiate with private owners to maintain privately owned ports of entry, which I understand there are more than 20?**

For fully-serviced leases at Land Ports of Entry (LPOE), the lease contract specifies the level of services required by the lessor to maintain the facility using a performance based contract. For non-fully serviced leases at LPOEs, GSA contracts with the private sector to provide services to maintain the port of entry.

The primary difference between lease negotiations on LPOEs and other lease procurements is that LPOEs are less than full and open procurements. Because the site and the owner are already established (often via a Presidential Permit), there is no competition.

GSA determines fair and reasonable pricing by looking to market information; costs of other, equivalent build-to-suit leases in the area; and existing contracts and price information submitted by the lessor.

While no contracting officer is expected or required to sign a lease if the price is not fair and reasonable, the critical nature of LPOEs often limits other options. However, most private LPOE owners depend upon the revenue that a bridge / or other border crossing will bring in and are willing to make concessions in order to maintain or increase that traffic flow. Usually, GSA is able to negotiate a fair resolution and, while we can't competitively select the owner or the location, we do have some flexibility in negotiations that leads to an equitable outcome.

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- 3. GSA issued a report in either 2000 or 2001 detailing the agency's priorities for ports of entry construction over several years. Do you expect to update this report anytime in FY08 or 09? How does GSA coordinate its priorities with DHS's priorities?**

No, we do not expect to update this report. The report has been replaced by a new, ongoing facility planning process created by DHS in FY 2005, which is captured in DHS' Capital Improvement Plan.

GSA coordinates our priorities with DHS' priorities in the following manner: DHS will identify which projects are of highest priority through their ranking protocols, and will provide GSA their five-year plans with the annual work plans identifying which projects will be pursued that particular year. GSA will work with DHS annually to identify which projects are ready for funding, which are ready to begin feasibility studies, or which are under consideration but have outstanding issues (e.g., environmental concerns, local community impacts, etc.).

**FY 2009 Budget Request of the General Services Administration
Questions for the Record
Submitted by Mr. Regula**

Question on Courthouse Construction

In your FY09 budget, GSA is requesting \$110 million for the San Diego courthouse. There are no other funds for new construction of Federal courthouses.

- 1. Please describe the reasons for the San Diego courthouse request. Are these funds in addition to prior year funds already appropriated?**

Yes. The \$110 million is in addition to funds already appropriated.

The current request supplements the construction funding already received to offset the dramatic increase in construction costs in Southern California. In recent years, the southern California construction market has experienced significant increases in the cost of construction materials and labor. In FY 2006 alone, the construction cost escalation rate was approximately 16%. The original funding request for the San Diego Courthouse did not anticipate this sustained rise in the cost of construction. GSA has incorporated recommendations to reduce the project cost as well as changes to the construction delivery method, and intends to re-solicit the construction in 2009.

- 2. My understanding is that the original plans for design of the courthouse included some expensive options such as several fitness facilities. Are you comfortable that the scope of the design has been modified enough to fund only reasonable costs?**

GSA has incorporated significant value engineering recommendations into this project. The project as currently designed represents an appropriate level of finish, durability and operability that will satisfy the long term investment needs of the government. We have incorporated into the design the requirements of our several tenants, including the Administrative Office of the United States Courts and the United States Marshals Service. They, too, were appropriately "value engineered", in order to ensure the project can be successfully awarded.

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3. Could you describe the reasons for the escalating costs?

Substantial increases in the costs of construction materials and labor in San Diego echo national trends and are driven by the same factors: Increased global demand for construction materials, lack of skilled labor to meet demand, increased energy costs, and low interest rates fueling a tremendous growth in the volume of commercial construction activity.

Nation-wide increases in construction costs are exacerbated in southern California, where additional factors have contributed to cost escalations higher than the national average:

- Insurance and bonding costs have risen dramatically, which has reduced the pool of qualified contractors, thus limiting contractor competition; and
- 2,700 acute-care California hospitals are rushing to comply with seismic upgrades by 2013 at a cost of \$24 billion and Los Angeles Unified School System construction and modernization program at a cost of \$24 billion add to the volume of construction and reduce competition.

4. With regards to other courthouse construction, what outyear estimates does GSA have for the needs for new courthouse construction over the next five years?

The Five-Year Courthouse Project Plan for FYs 2009-2013 as approved by the Judicial Conference of the United States on March 11, 2008 totals \$1.72 billion. A copy of this plan has been provided as a separate attachment.

**FY 2009 Budget Request of the General Services Administration
Questions for the Record
Submitted by Mr. Regula**

Financial Health of the Federal Buildings Fund

GSA is requesting more in direct appropriations to the Federal Buildings Fund than in past years -- \$525 million. This would supplement the over \$8 billion in revenues that the Fund receives in rental payments.

1. Does this request indicate that the financial health of the Federal Buildings Fund is in worse shape than past years?

No, this request does not indicate that the financial health of the Federal Buildings Fund (FBF) is in worse shape than past years. The FBF is in good financial "health." Year-to-date rent revenues and operating expenses are consistent with planned levels, and year-end results should be close to those projected in the Congressional Justification.

The financial health of the FBF, although currently sound, faces a long term threat from our growing reliance on operating leases to fulfill the space requirements of Federal agencies. The FBF was designed to generate net revenues from the rental of government-owned space and reinvest those funds in the capital program. The increase in leased space reduces net revenues to the Fund, reducing the amount available for reinvestment, and increasing the reliance of the FBF on annual appropriations to support construction and repairs and alterations projects. In 2004, approximately 25% of PBS' New Obligational Authority was used to support the capital program; in contrast, the FY 2009 President's Budget reflects less than 16% available for the capital program.

2. Does the revolving fund model need to be reformed?

No, the Federal Buildings Fund is a sound business model, particularly since enactment of GSA's authority to retain the proceeds from its real property disposals. However, with significant calls on capital for national priorities such as land ports of entry, new courthouses, FBI Field Offices, and the Department of Homeland Security Headquarters consolidation, the Federal Buildings Fund cannot support the new construction requirements and address the reinvestment needs of the current portfolio without exploring other options.

Without intervention from Congress, GSA will continue to lease space more and the reinvestment liabilities will continue to grow. This is not a new concept. From time to time, Congress has seen the need to supplement the Federal Buildings Fund to support national priorities and shore up the aging infrastructure by providing significant direct appropriations to the FBF. Congress has also provided new legislative authorities that have allowed GSA to add capital to the Fund without direct appropriations; most notably, the retention of proceeds provisions of Section 412 of the FY 2005 Appropriations Act.

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- 3. What are the outyear funding estimates for the Federal Buildings Fund to address the need for additional ports of entry construction, DHS consolidation, courthouse construction and tackling the repairs and alterations backlog?**

GSA estimates the current construction program for land ports of entry, executive branch agencies, and courthouses to exceed \$10 billion, with reinvestment needs for GSA's 1,500 Federal buildings exceeding \$7 billion.

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Submitted by Mr. Regula**

Federal Real Property Council

In January 2003, GAO designated Federal real property as a high-risk area. In February 2004, President Bush signed an Executive Order creating the Federal Real Property Council to strategically manage Federal property. Yet, GAO has not removed Federal real property from its high-risk list citing the need for more progress.

Could you explain what is high risk about the Federal government's property management?

In January 2003, the Government Accountability Office (GAO) designated Federal real property as a high-risk area due to longstanding problems with:

1. excess and underutilized property,
2. deteriorating facilities,
3. unreliable real property data,
4. reliance on costly leases, and
5. challenges protecting facilities from the threat of terrorism.

GAO issued an update to the Federal Real Property High Risk Series Report in April 2007. GAO reported that progress has been made, but real property remains a high-risk area since the underlying problems identified in the FY 2003 report continue to exist. GAO noted that these problems are exacerbated by deep-rooted obstacles that include competing stakeholder interests, legal and budgeting limitations, and the need for improved capital planning.

GSA has taken a number of aggressive actions since 2003 to address each of GAO's concerns within our own inventory and to assist other Federal agencies in improving their real property management.

- **Unreliable Real Property Data:** GSA's Office of Governmentwide Policy -- in partnership with the Office of Management and Budget (OMB) -- has revamped the government-wide real property inventory database (the Federal Real Property Profile) to collect new data elements and performance measures to improve the quality and quantity of Federal real property data.
- **Deteriorating Facilities:** GSA's Public Buildings Service (PBS) has undertaken an aggressive portfolio restructuring and has disposed of over 270 vacant and underutilized assets thereby avoiding over \$600 million in repairs and alterations costs.
- **Excess and underutilized property:** PBS has developed strategies to eliminate vacant space, asset by asset. As a result, GSA vacancy rates in government-owned properties have decreased from 9.2 percent in FY 2002 to 5.56 percent in

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FY 2007, and government-leased vacancy rates have been below 1.5 percent for the past five years.

- PBS also assists other landholding Federal agencies to cost effectively re-deploy their property or and otherwise to dispose of surplus or excess assets through the Office of Real Property Disposal.

What challenges remain?

The single greatest challenge to the Federal government's property management is the lack of available funding to address known and longstanding problems in the inventory. Federal land-holding agencies are not reporting unneeded real property holdings because they are unable to devote financial resources to determine whether property should be retained or reported as excess or surplus. Likewise, even when properties are analyzed and retained in the inventory, the backlog of repairs and alterations requirements associated with these properties is overwhelming. And, as mentioned previously, budgeting restraints on GSA's capital investment programs are forcing a growing reliance on leased space to meet the Government's long-term space needs.

GSA recognizes that fiscal constraints and budget realities will always focus funding for our sister agencies on their core mission requirements. Rather than requesting additional appropriated funding, GSA's FY 2009 budget requests additional legislative authority that would allow GSA to assist other Federal agencies to analyze their portfolios and optimize their inventories. Any associated costs would be funded from the proceeds of the eventual disposal of surplus properties identified through the process.

Section 525 of GSA's Administrative Provisions proposes the revision of title 40 of the United States Code to allow GSA to conduct "asset redeployment services". Currently, GSA lacks the authority to provide asset re-deployment services until a specific property is reported by an agency as excess. The proposed legislation would allow GSA to enter much earlier in the process, and actually assist agencies in the determination of whether a property should be retained or put through the disposal screening process.

This provision would allow agencies to identify excess property earlier, accelerate the disposal process, and improve their property utilization rates without an increase in the agency's or GSA's appropriations. This provision allows Federal landholding agencies to focus on their core missions, and helps GSA to deliver on our core mission of delivering best value solutions to taxpayers and Federal customers.

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Questions for the Record
Submitted by Mr. Regula**

What is the President's Federal Real Property Council?

The Federal Real Property Council (FRPC) was established by Executive Order 13327, "Federal Real Property Asset Management", signed by President George W. Bush on February 2, 2004.

The FRPC consists of Senior Real Property Officers, the Controller of the Office of Management and Budget (OMB), the Administrator of General Services, and any other officials or employees permitted by the chair of the council. The Deputy Director for Management for OMB is the chair of the FRPC, and OMB provides funding and administrative support to the FRPC.

There are three FRPC interagency committees that were established to develop and implement a strategy to accomplish the objectives outlined in EO 13327. The committees are: Asset Management Plans Committee, Inventory and Performance Measures Committee, and the Systems Committee. The FRPC's main role is to:

- develop guidance for preparing and implementing agency asset management plans,
- work with GSA to establish asset management performance measures, and
- serve as a clearinghouse to executive agencies for best practices in real property management.

In just over four years, the FRPC has put into place the major elements of EO 13327 and the President's Management Agenda initiative. These actions are yielding significant results. Specifically:

- The FRPC established the Federal Real Property Profile database which holds inventory and performance data on more than 1.1 million assets with an estimated replacement value of more than \$1.5 trillion.
- Agencies have asset-level performance data to assist in decision-making, such as identifying those assets in need of investment and unneeded assets suitable for disposal.
- Agencies have disposed of more than \$7 billion in unneeded Federal real property which puts the government on track to meet the Administration's target to dispose of \$9 billion by 2009.

Moving forward, the FRPC aims to work closely with the GAO to implement the necessary steps to remove real property management from GAO's "high risk" list. The FRPC approach to date has been consistent with many of the recommendations outlined in GAO's most recent report (GAO 07-349, April 2007). Namely, the FRPC has:

- promoted more effective property management *leadership*;
- improved government-wide real property *information*; and
- provided enhanced *asset management tools* to make federal real property management more effective.

**FY 2009 Budget Request of the General Services Administration
Questions for the Record
Submitted by Mr. Regula**

West Wing Infrastructure Systems Replacement

The budget request includes \$76 million for West Wing renovations.

1. Can you explain why this funding is required?

The \$76,487,000 request for funding the West Wing Infrastructure construction is for the below grade installation of certain utility and IT services extending from the Eisenhower Executive Office Building to the West Wing. The project scope of work includes work relating to the transmission of steam, chilled water, electrical services and IT services; and access to service and maintain these distribution lines. Below grade interferences, sequencing of the work, and provision of redundancy to assure service continuity for the duration of construction are essential to the success of the project.

Much of the mechanical and electrical equipment in the West Wing is more than 50 years old. Given an average life span for mechanical equipment of about 35 years, the West Wing infrastructure is living on borrowed time, since interruption of these services would be extremely disruptive. There will be brief periods during construction for planned outages to transfer services to the new systems. Some systems must not experience any discontinuity, therefore redundancy to prevent service interruptions is essential, and such redundancy is factored in the scope of work and cost.

2. Is this a one-time requirement or will additional funding be required in future years?

An overall replacement of the primary HVAC and electrical systems in the West Wing is required, along with replacement and repair of the accompanying secondary distribution system that services the interior of the West Wing. The requested infrastructure project (\$76,487,000) will have standalone benefits. However, a distribution project, including internal equipment and distribution of services throughout the West Wing, is also recommended. The cost of this effort is anticipated to be about \$80 million.

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Submitted by Mr. Schiff**

Although I have not been provided with a detailed report of the proposal, I have serious questions about some of the cost assumptions in the proposal and construction schedule, and that it will ultimately cost as much, if not more than the alternative proposal of 36 courtrooms and 45 chambers the courts offered to GSA in May 2007.

To what extent do your cost estimates include either doing the renovation work at night or moving the court into swing space during the renovation? What would those additional costs be?

The Roybal expansion project will not require swing space but will require off-hours construction work. The cost for this off-hours work has been included in the cost assumptions and built into the unit values.

GSA would be happy to discuss costs for this project with any Members of the Committee.

According to the March 2008 GSA proposal, many federal agencies will have to be relocated to make way for court expansion in the Roybal building. What is the cost of relocating these agencies? Are the lease and relocation costs included in the \$700 million estimate? If not, why not?

The Drug Enforcement Agency (DEA) and the Equal Employment Opportunity Commission (EEOC) will relocate. The total one time costs of relocation are estimated to be \$1.3 million. The estimated annual rental is \$6.7 million for DEA and \$0.6 million for EEOC, totaling \$7.3 million per year. Relocation costs are not included in the project estimate because relocation of both agencies is required regardless of which housing alternative is selected.

Please provide for the record cost estimates, fact sheets, and a prospectus document for both the May 2008 proposal and the previous 36 courtroom/45 chambers proposal accepted by the AO so Congress can better compare the two scenarios.

GSA will provide the cost estimate information and fact sheets under separate cover and prior to our upcoming briefing. However, the prospectuses requested have not been approved by the Administration or forwarded to the authorizing Committees of Congress.

WEDNESDAY, APRIL 9, 2008.

FEDERAL COMMUNICATIONS COMMISSION

WITNESS

KEVIN MARTIN, CHAIRMAN, FEDERAL COMMUNICATIONS COMMISSION

CHAIRMAN SERRANO'S OPENING STATEMENT

Mr. SERRANO. The subcommittee will come to order. Good morning to all.

Kevin Martin, we welcome you to this hearing on behalf of the committee; and we bring you special greetings from Howard Stern. I thought you would appreciate that. [Laughter.]

Welcome to this hearing of the Financial Services and General Government Subcommittee. Today, the subcommittee will take testimony from the Chairman of the Federal Communications Commission, the Honorable Kevin Martin. Kevin Martin has been a member of the Commission since 2001 and has been chairman since 2005.

Chairman Martin, we welcome you to this hearing once again.

The purpose of this hearing is to review the FCC's budget request. The Commission requests a budget for fiscal year 2009 of \$338.9 million, which is a \$25.9 million or 8.3 percent increase over the current year. We look forward to discussing this budget request with you.

However, as was the case with past FCC hearings, we expect this hearing to cover a range of issues, including some policy matters that are now or have recently been before the Commission. There is always a great deal of interest in what the Commission does because your decisions touch nearly all of us in our daily lives, especially the chairman, like me, who owns three different satellite radios; and we will talk about that later.

You have authority over radio, television, telephone, satellite and cable services. You regulate one of our most precious assets, the public airwaves. You are required to ensure that all Americans have available telecommunication services at reasonable charges without discrimination on the basis of race, color, religion, national origin or sex.

The importance and breadth of the FCC's authority places it squarely in the middle of some of the most important and controversial issues facing our Nation. Some of these issues include media ownership rules, cable regulation, net neutrality and an issue that is of great concern to me, the transition to digital television scheduled for February of 2009.

The FCC's budget request for 2009 includes \$20 million, which is the largest single increase, to expand DTV transition education.

There is no question in my mind that more must be done to inform and prepare consumers for this transition.

A recent survey estimated that more than 30 million households are currently unprepared for the transition because their televisions receive only analog signals. The survey also found that African Americans and Hispanics make up a disproportionate share of these households. I am concerned about how these families will successfully manage the transition.

And I must say, Chairman Martin, just as an aside, I don't know for sure but I know there is an effort being made on Spanish television to inform folks that this change will come. I don't think I have seen the same kind of output—and maybe it is not needed or maybe the networks feel it is not needed—in the English language media. In Spanish, I have seen Univision and Telemundo do a pretty good job of letting people know that something dramatic is coming.

With regard to media ownership, in December, the FCC approved on a 3–2 vote a media ownership rule change that would allow newspaper and broadcast company consolidations in the 20 largest media markets. This action by the Commission troubled many in Congress and in the public. There is concern that the new rules will impede diversity and that it is an ill-advised step towards consolidating the voices of media among the larger and wealthier outlets. While this is not a budget issue, you can be certain that this is a topic of interest among some members of this subcommittee, I would say probably all Members, one way or another.

We look forward to your testimony, Chairman Martin. And I know you have a lot on your plate, and we will certainly perhaps add more to it as we finish this hearing today, but before we begin your testimony, I would like to hear from a man who invented cable television in Ohio. In fact, he brought it to Ohio before it came to the Bronx.

Mr. REGULA. That is true.

Mr. SERRANO. Very few people know this but, as you know, just to remind these folks who feel that these hearings are too boring, some people have claimed that cable television, amongst two or three reasons, was invented to bring New York City stations out West and to the South. Because of that, New York City thought it had great stations; and we got cable television in the Bronx in the last decade, really. I mean, it is hard to believe. I don't know why I am whining. But, anyway, Mr. Regula.

Mr. REGULA. Well, with a little bit of luck, you may get it in Puerto Rico.

Mr. SERRANO. We get it in Puerto Rico. It is satellite radio that I am working on.

MR. REGULA'S OPENING STATEMENT

Mr. REGULA. Well, okay. I think the point you make there, these are services that touch almost every American citizen and business every day. I think the whole age of communications is mind-boggling; and what lies ahead, I have no idea. But I think there is a lot more that will be fascinating for other generations.

You have the challenge of balancing between providing enough regulation and oversight to ensure that the American people have

communication services, while not slowing technological progress or impinging on individual rights. And I think that is always a challenge in a democracy, to balance these things out.

And you have a lot of watchdogs that are looking over your shoulder because of the challenges you have. You have the business world; you have the techies, the technology and the consumer groups, that are all watching every move you make; and so that is a real challenge. And we look forward to hearing your testimony today.

The change from analog to digital will be, for some, rather traumatic, I think. So we can buy a converter box with vouchers. I understand that, but how does that mean they are going to get it hooked up? Because not everybody will be able to hook up the box once they get it. And I suppose there will be an industry that will grow up that—with an ad in the paper will come out and hook up your box so that you can get digital, if that be the case.

But, anyway, we look forward to hearing your testimony and what you see is the challenges ahead in your industry.

Thank you, Mr. Chairman.

Mr. SERRANO. Thank you.

If I may say, Chairman Martin, that there are many times when agency heads come before a committee, when the press wonders how much of what we are dealing with at a particular hearing we participate in ourselves. I can assure you from my conversations that Members of Congress carry at the minimum, most of us, one cell phone, if not two, one personal and one congressional or otherwise. That so many of us have satellite radio at home, portable or in the dashboard of the car, that we play around with the DVR at home to try to figure out how to record that show while we are here in Washington or vice versa.

So we are not totally unaware of what is going on. What we are in need of is knowing how all this fits into the lives of all Americans and, in fact, is it available to all Americans.

And we welcome you today. We remind you that your testimony should be held to 5 minutes. Your full statement will go in the record so that we can grill you for the next 7 hours.

CHAIRMAN MARTIN'S TESTIMONY

Mr. MARTIN. Well, thank you; and good morning to you, Chairman Serrano and Ranking Member Regula and all the members of the committee.

I appreciate the opportunity to discuss the FCC's fiscal year 2009 budget request and, of course, the broader issues as well, which I am certain we will spend some time on this morning.

I am pleased to work with the subcommittee on our fiscal year 2009 appropriations. The appropriations process is certainly an exercise in fiscal responsibility. It enhances our internal systems of financial checks and balances—

Mr. SERRANO. Is your mic on?

Mr. MARTIN. Hello. Can you hear? Is this better?

Mr. SERRANO. Yeah.

Mr. MARTIN. I am pleased to work with the subcommittee on the fiscal year 2009 appropriations process, and the appropriations process is an exercise in fiscal responsibility. It enhances our inter-

nal system of financial checks and balances by bringing into focus for the Commission priorities of the subcommittee. I welcome your oversight and input and look forward to working with you to ensure the Commission is financially able to perform its mission.

Since I have assumed the chairmanship, the Commission has been working to strengthen the budget-related functions. I am pleased to report these efforts have paid off. For example, for the last 2 years, the Commission's independent auditor has provided an unqualified opinion and found no material weaknesses in the Commission's financial operations. The Commission has never received such high marks from its outside auditor for 2 years in a row.

The Commission is requesting spending authority of \$338,874,783 for fiscal year 2009. As in prior years, the Commission proposes to receive a direct appropriations for \$1 million and to raise the remainder through regulatory fees.

To continue to operate at our current level, the Commission requires \$311 million, which would represent a decrease of .3 percent below the level set for fiscal year 2008. Of the total requested for the next fiscal year, \$7.7 million is designated for these nondiscretionary operating increases to maintain fiscal year 2008 service levels. This includes employee salaries for all projected full-time equivalents, inflationary increases for office space rentals, supplies, printing, postage and contractual services. Of the additional money, \$6.6 million is designated for employee salaries and \$1.2 million is designated for other nondiscretionary inflationary increases.

The Commission is also requesting an additional \$26 million to implement five specific initiatives.

First, \$20 million will continue and expand an outreach campaign to educate consumers about the upcoming transition to digital television. For the Commission's fiscal year 2008 appropriations, Congress authorized \$2.5 million for consumer education about the DTV transition. The additional money would allow the Commission to continue and expand a wide range of outreach projects to help educate consumers about the DTV transition.

Second, the Commission is requesting \$1,050,000 to fund a public safety clearinghouse program that would significantly expand our coordination and outreach efforts targeted to the public safety community. The Commission would also use these funds to establish a public safety fellowship program to attract experts in the public safety community to work for the Commission for a temporary period. This would help the Commission strengthen its ties to the public safety community.

Third, the Commission is requesting \$1.9 million for the Inspector General to increase its efforts to fight waste, fraud and abuse in the Universal Service Fund and other Commission programs. These moneys would allow the Inspector General to further increase oversight of the \$7 billion Universal Service Fund as well as other Commission programs and activities.

Fourth, the Commission is requesting an additional \$200,000 for travel expenses to cover official travel. Starting this fiscal year, Commission employees are prohibited by law from accepting payment for travel from entities that are subject to Commission regu-

lation. These funds would cover official travel that was formerly authorized to be paid for by non-Federal sources.

And, finally, the Commission is requesting \$3.7 million for three modernization efforts. The Commission proposes to use \$900,000 to complete the lifecycle replacement for vehicles the Commission uses to support police, fire departments and other public safety organizations. This would allow us to purchase 10 special vehicles that are used to investigate and resolve harmful interference to the communications system of public safety and other organizations. The Commission also proposes to use \$1.5 million to consolidate the information technology systems used to process license applications. In addition, the Commission proposes \$1.375 million to complete the replacement of the Commission's antiquated accounting system.

We are also requesting legislative authority to permit the transfer of up to \$25 million from the Universal Service Fund in fiscal year 2009 for the purpose of monitoring the Universal Service Fund, again, to prevent and remedy waste, fraud and abuse and to conduct audits and investigations by the Commission's Office of Inspector General. This subcommittee granted a similar request for the current fiscal year. These moneys would be used to build upon the oversight work done to date, to continue strengthening the controls intended to safeguard the Universal Service Fund and to maintain a staff of 19 limited term employees in the Inspector General's Office dedicated to these matters. These moneys would also permit the Commission's Office of Inspector General to obtain contract support to perform audits of the Universal Service Fund beneficiaries and its contributors.

One of the Commission's important functions is using auctions to assign special licenses. On March 18, 2008, the Commission announced the close of our 700 megahertz auction, which raised a record \$19.6 billion in revenue and helped advance new open platform policies. The Commission has additional auctions projected to take place within the next year.

The Commission is permitted by law to use a portion of the revenues raised through spectrum auctions to help run that program. During the past five funded cycles, the final appropriations bills set a cap of \$85 million on auction expenses. We believe we can continue to run the auctions program at this level of funding for fiscal year 2009.

I am continuing to work with my colleagues on the Commission and with Members of Congress to develop plans for promoting broadband services, protecting consumers, ensuring the viability of the Universal Service Fund, enhancing public safety, and promoting the efficient use of spectrum.

Thank you again for the opportunity to work with you on our budget request for this year. I respectfully request the subcommittee grant the Commission its full funding request for fiscal year 2009, and I am pleased to answer any questions about our budget or any of the other policies during our discussion this morning. Thank you.

Mr. SERRANO. Thank you so much. Thank you.
[The information follows:]

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TESTIMONY

Of

Kevin J. Martin

Chairman

Federal Communications Commission

Before the

**Subcommittee on Financial Services and General Government
of the Committee on Appropriations
United States House of Representatives**

On the

**Federal Communications Commission's
Fiscal Year 2009 Budget Estimates**

Wednesday, April 9, 2008

Good morning, Chairman Serrano, Ranking Member Regula, and Members of the House Appropriations Subcommittee on Financial Services and General Government. I appreciate this opportunity to appear before you today to discuss the Federal Communications Commission's Fiscal Year 2009 Budget Request.

I am pleased to work with the Subcommittee on the Fiscal Year 2009 appropriations process. The appropriations process is an exercise in fiscal responsibility - it enhances our internal system of financial checks and balances by bringing into focus for the Commission the priorities of this Subcommittee and its staff. I welcome your oversight and input, and I look forward to working with you to ensure that the Commission is financially able to perform its mission.

Since I have assumed the chairmanship, the Commission has been working to strengthen its budget-related functions and I am pleased to report that these efforts are paying off. For example, for the last two years, the Commission's independent auditor provided an unqualified opinion and found no material weaknesses in the Commission's financial operations. The Commission has never received such high marks from its outside auditor two years in a row.

Fiscal Year 2009 Request

The Commission is requesting spending authority of \$338,874,783 for Fiscal Year 2009. As in prior years, the Commission proposes to receive a direct appropriation of \$1,000,000 and to raise the remainder, or \$337,874,783, through regulatory fees. During the current fiscal year, the Commission has a spending level of \$313,000,000, with all but \$1,000,000 raised through regulatory fees.

To continue to operate at our current level, the Commission would require \$311,968,783, which would represent a decrease of 0.3 percent below the level set for Fiscal Year 2008, for

nondiscretionary operating increases. Of the total requested for the next fiscal year, \$7,744,783 is designated for these nondiscretionary operating increases to maintain Fiscal Year 2008 service levels, including employee salaries for our projected full-time equivalents (FTEs), and inflationary increases for office space rental, supplies, printing, postage, and contractual services. Of the additional \$7,744,783, \$6,582,975 is designated for employee salaries and \$1,161,808 is designated for the other nondiscretionary inflationary increases.

The Commission is requesting an additional \$26,906,000 to implement five specific initiatives. First, \$20,000,000 would continue and expand an outreach campaign to educate consumers about the upcoming transition to digital television (DTV). In the Deficit Reduction Act of 2005, Congress established a hard deadline of February 17, 2009 for completing the DTV transition. For the Commission's Fiscal Year 2008 appropriation, Congress authorized \$2,500,000 for consumer education about the DTV transition. The Commission is using these appropriated funds to help educate consumers about the benefits and impact of DTV in advance of the deadline. The Commission's contracting staff awarded a contract to Ketchum, Inc. to assist our efforts to promote consumer awareness of the DTV transition and to provide full-service production of outreach materials. For example, by the beginning of July, DTV education posters will be displayed in all 34,000 post offices across the nation. The additional money would allow the Commission to continue and expand a wide range of outreach projects to help educate consumers about the DTV transition. Also, attached is my April 8, 2008 testimony before the United States Senate Committee on Commerce, Science, and Transportation concerning our efforts related to the DTV conversion.

Second, the Commission is requesting \$1,050,000 to fund a Public Safety Clearinghouse Program that would significantly expand our coordination and outreach efforts targeted to the public safety community. The Commission would also use these funds to establish a "Public Safety Fellowship Program" to attract experts from the public safety community to work for the Commission for a temporary period. This program, together with closer collaboration and increased outreach efforts, will help the Commission strengthen its ties with the public safety community.

Third, the Commission is requesting \$1,919,000 for the Inspector General to increase its efforts to fight waste, fraud, and abuse in the Universal Service Fund and other Commission programs. These monies would allow the Inspector General to further increase oversight of the \$7 billion Universal Service Fund, as well as other Commission programs and activities.

Fourth, the Commission is requesting an additional \$200,000 for travel expenses to cover official travel. The Commission had already restricted the ability of outside entities to pay for the travel of Commission employees, including a ban on division chiefs and other senior managers from accepting industry-sponsored travel. Starting this Fiscal Year, Commission employees are prohibited by law from accepting payment for travel from entities that are subject to Commission regulation, and these funds would cover official travel that was formerly authorized to be paid for by non-Federal sources.

Finally, the Commission is requesting \$3,737,000 for three modernization efforts. The Commission proposes to use \$900,000 to complete the lifecycle replacement for vehicles the Commission uses to support police, fire departments, and other public safety organizations. This would allow us to purchase ten special vehicles that are used to

investigate and resolve harmful interference to the communications systems of public safety and other organizations. In addition, the Commission also proposes to use \$1,462,000 to consolidate the information technology systems used to process license applications and \$1,375,000 to complete the replacement of the Commission's antiquated accounting system.

Universal Service Fund Oversight

We are also requesting legislative authority to permit the transfer of up to \$25,480,000 from the Universal Service Fund in Fiscal Year 2009 for the purposes of monitoring the Universal Service Fund to prevent and remedy waste, fraud, and abuse, and to conduct audits and investigations by the Commission's Office of Inspector General. This Subcommittee granted a similar request for our Inspector General for the current fiscal year. These monies would be used by the Inspector General to build upon the oversight work done to date, to continue strengthening the controls intended to safeguard the Universal Service Fund, and to maintain a staff of 19 limited term employees for the Inspector General's Office dedicated to these matters. The additional personnel would perform audits, provide investigational support to law enforcement agencies, review audit findings, and help with legal proceedings arising from the increased oversight. These monies would also permit the Commission's Office of Inspector General to obtain direct contract support to perform audits of Universal Service Fund beneficiaries and contributors.

Auctions

One of the Commission's important functions is using auctions to assign spectrum licenses. On March 18, 2008, the Commission announced the close of the 700 Mhz auction, which raised \$19.592 billion in revenue and helped advance new open platform

policies. The Commission has additional auctions projected to take place within the next year.

The Commission is permitted by law to use a portion of the revenue raised through spectrum auctions to run the program. During the past five funding cycles, the final appropriations bills set a cap of \$85 million on auctions expenses. We believe we can continue to run the auctions program with this level of funding in Fiscal Year 2009.

Budget Objectives

I am continuing to work with my colleagues on the Commission and with members of Congress to develop plans for promoting the deployment of broadband services, increasing competition, protecting consumers, ensuring the viability of the Universal Service Fund, enhancing public safety and homeland security, promoting the efficient use of spectrum, and reviewing media regulation to foster competition, localism, and diversity. I am also continuing to develop plans to ensure that the Commission and its staff have the tools and training necessary to accomplish our goals and mission.

Conclusion

Thank you again for this opportunity to work with you to review the Commission's Fiscal Year 2009 Budget. I respectfully request this Subcommittee grant the Commission its full funding request for Fiscal Year 2009. I would be pleased to answer any questions that you may have.

Attachment

**Written Statement
Of**

**The Honorable Kevin J. Martin
Chairman
Federal Communications Commission**

**Before the
United States Senate
Committee on Commerce, Science and Transportation**

April 8, 2008

Good morning Chairman Inouye, Vice Chairman Stevens, and Members of the Committee. Thank you for inviting me here today to update you on the status of the digital transition.

On February 17, 2009, all full power television stations in this country will stop broadcasting in analog, and broadcast exclusively in digital, as mandated by Congress in the Digital Television and Public Safety Act of 2005. A successful digital transition will depend upon minimizing the burdens placed on consumers and maximizing their ability to benefit from it.

The DTV transition will be a historic moment in the evolution of TV. Television viewers will be able to enjoy movie quality picture and sound and potentially new programming choices. It also will allow us to significantly improve public safety communications and will usher in a new era of advanced wireless services such as the widespread deployment of wireless broadband.

According to recent data from the Consumer Electronics Association and the National Association of Broadcasters, consumer awareness of the transition has grown. It is up 80% from 41% consumer awareness in August 2006 to 74% consumer awareness in January 2008, according to CEA, and NAB reports it has more than doubled since 2007. And recent surveys published by NAB and Consumers Union found 79% and 64% of consumers were aware of the transition respectively. More recently (in March), the Association of Public Television Stations (APTS) issued the findings to a survey it

conducted in February indicating that consumer awareness of the transition increased from 51% to 76% in just three months (November 2007 to February 2008). In addition APTS finds that: "Roughly 62 percent of ... over-the-air consuming households who are aware of the transition indicated that they would buy a converter box or digital TV set between now and when the transition takes effect..." which is up dramatically since November 2006, when only "28 percent of over-the-air households said they would take those options."

That more and more viewers are aware of the transition is a step in the right direction. However, we still have more work to do. Specifically, the Consumers Union also found that 74% of consumers have "major misconceptions" about the impact of the transition on them. In other words, too many Americans remain confused about what they need to do to prepare for it. And APTS finds that "17.5 percent of over-the-air consumers who are aware of the transition 'don't know' what they will do and roughly 10 percent said they would 'do nothing.'" Taken together, these surveys are valuable research tools to better guide our education and outreach efforts over the next ten months.

This recently released data also demonstrates that facilitating a successful DTV transition is an enormous undertaking. And it is one which no single entity, public or private, can achieve alone. Rather it requires the commitment and cooperation of government, industry and consumer groups. We have made that commitment and are actively working with these important stakeholders.

In February, I participated in an event marking one year before the transition at a local Best Buy store which sells digital televisions and is currently selling digital to analog converter boxes. Commerce Secretary Gutierrez, Meredith Baker and I were joined there by top representatives of the nation's broadcasters, cable operators, and the consumer electronics industry. We are working together, along with others inside and outside of government, in an unprecedented public-private partnership to educate consumers throughout the country. Today's hearing is a welcome opportunity to discuss our work with all of our DTV partners both in terms of outreach and education and necessary regulatory steps to ensure all Americans can share the benefits of this historic digital transition.

UPDATE ON BROADCASTERS TRANSITION TO DIGITAL

Last August, the Commission adopted the final DTV table of allotments based on the channel elections made by the full power broadcast stations. This order provided virtually all (over 99%) of the television stations across the country with their final channel assignments for broadcasting in digital following the DTV transition. By finalizing broadcasters' channel allotments, the Commission helped ensure that broadcasters could begin making final preparations for their own conversion.

Nearly two-thirds of full power stations (1180) will remain on the same channel they are currently using for digital service. Most of these stations, over 1030, have completed construction and are already providing full service to their viewers. The remainder, roughly 150, are working on completing construction of their full service facilities. One-

third of full power stations, (roughly 635), are changing channels for their operation after the transition and are currently filing construction permit applications, ordering equipment, and scheduling tower crews.

In December of 2007, we also concluded the Third DTV Periodic Review. This Order adopted the procedures and rules to guide broadcasters through the end of the transition. Among other important decisions, this order adopted the interference standard for post-transition applications and forecast the date, later this year, when the Commission will consider requests from broadcasters to expand their service area.

In the Third DTV Periodic Review, the Commission recognized that stations will need flexibility to complete the transition. Consequently we adopted procedures that will allow broadcasters to adjust their buildout according to their needs and the needs of their viewers. For example, we will consider requests from broadcasters that find it necessary to reduce analog service before the transition date, but they will be required to inform their viewers well in advance of any reductions.

In addition to getting the proper rules in place, it is important that broadcasters' progress be carefully monitored. Accordingly, to enable the Commission to closely track broadcasters' progress toward completing their transition, we required each station to file a report on the status of the construction of its post transition facility. All stations have submitted the first such report, and over 1,000 indicated that they were completely finished with their DTV transition. Broadcasters are required to update the Commission

with any changes to their status as events warrant. In the Third Periodic, the Commission committed to send Congress a full report on broadcasters' DTV build-out in August. Broadcasters that have not completed their transition must report again by October 20, 2008.

CARRIAGE OF DIGITAL SIGNALS

Much of the focus of our consumer education efforts has been on the approximately 15% of the homes who rely on over-the-air broadcast signals. These efforts have presumed that subscribers to cable and satellite will continue to be able to receive digital broadcast signals just as they do analog broadcast signals today. It is critical to note, however, that our rules needed to be modified to clarify that cable and satellite companies were required to carry digital broadcast signals to their customers just as they do the analog broadcast signals today. Our goal with both of these Orders was not to expand carriage but rather to ensure that the broadcasters' switch from analog to digital was not used as an excuse to stop carrying the broadcasters' signal in a format that could be viewed by all subscribers, including analog cable subscribers.

Last fall, the Commission adopted an order that guarantees that analog cable subscribers will not be left in the cold once broadcasters ceased broadcasting in analog. Specifically, the Commission took action to ensure that after the transition, cable operators will continue to make every broadcast station's signal viewable, as the statute requires. As a result, we significantly reduced the number of Americans potentially needing a converter

box to watch broadcast stations post-transition. Making sure the almost 35 million households that subscribe to analog cable will be able to continue to watch broadcast television after the transition as they did before allows us to focus our energies on assisting the nearly 15 million households that rely exclusively on over-the-air signals.

The Commission recently adopted an order that will enable satellite subscribers to receive digital broadcast signals, as well. The law had required that when a satellite operator chooses to carry any local broadcast signals, it must carry all full power local broadcast signals in that market. The item recently adopted clarifies that, in such a "local-into-local" market, where a full power television station is broadcasting only in digital, the satellite operator must carry that digital signal upon request. This clarification is critical to ensuring that satellite customers, like cable customers, will continue to receive the same broadcast stations they saw the day before the transition on the day after the transition.

ENFORCEMENT

The Commission's DTV-related enforcement efforts have focused on protecting consumers from unknowingly buying televisions that won't receive broadcast stations following the transition. Specifically, we are enforcing three rules: 1) the requirement to label any remaining televisions with analog-only tuners; 2) the prohibition on the importation and shipment of television receivers without integrated digital tuners; and 3) the requirement that the V-Chip functions with the digital technology.

With respect to the Commission's labeling requirement, the Commission has, as of April 7, 2008, inspected 2176 retail stores and 36 websites and issued 347 citations notifying retailers of violations for failing to comply with our requirements. Because retailers are not licensees, we must give them a citation prior to issuing a Notice of Apparent Liability (NAL). In July 2007, we circulated to the Commissioners' offices NALs against seven of the largest retailers. In October 2007, we circulated another seven NALs against retailers. All 14 of these NALs, which contain fines totaling nearly \$5 million in the aggregate, are currently scheduled to be considered at our April open meeting later this week. In addition to these 14 NALs, the Enforcement Bureau has issued another seven NALs worth an additional \$104,000. It is my hope that through our vigorous enforcement actions, retailers will take concrete actions to avoid consumer confusion as the digital transition draws near.

In addition to our labeling investigations, we are continuing to ensure that no manufacturers are importing and shipping analog-only television receivers and equipment. We have issued NALs against two companies - Syntax Brilliant Corp. (approx. \$2.9 million) and Regent USA, Inc. (\$63,650) - for apparent violation of our rules in this area. One of these companies has already paid the fine and a forfeiture order with respect to the other company is scheduled to be considered at the Commission's April agenda meeting. In March, we circulated an NAL against an additional manufacturer and this item is also on the agenda for the April meeting.

Finally, we are ensuring that the digital tuners comply with the V-Chip regulations. As you know, the Commission's rules require digital television manufacturers to include the

V-Chip in their equipment and to ensure that their devices can adjust to changes in the content advisory system. We began investigating allegations that some manufacturers were not complying with our rules. As a result of these investigations we released an NAL against Funai Corporation. In October 2007, we circulated NALs against an additional seven manufacturers. Nine NALs, which contain fines totaling over \$6.5 million, are scheduled to be considered at the Commission's April agenda meeting later this week.

In addition, FCC Field agents soon will begin to visit retailer stores to assess their employee training and consumer education efforts regarding the DTV transition.

Swift enforcement of all our DTV-related rules is critical to protecting consumers and reducing potential confusion. Our activities in this area will continue to be a priority during the next 10 months.

CONSUMER EDUCATION AND OUTREACH

In order to educate consumers properly, all parties involved in the transition -- the FCC, NTIA, the broadcasters, the cable industry, satellite, manufacturers, retailers, consumer groups -- need to work together to educate consumers.

I commend the industry for the consumer education campaigns that they have initiated. Specifically, the National Association of Broadcasters (NAB) launched a \$700 million campaign that includes, among other things, television spots, 30 minute education programs about DTV and a 100-day countdown to the February 17, 2009 deadline. In

addition, the National Cable and Telecommunications Association (NCTA) launched a \$200 million campaign that includes, among other things, sending customer communication "tool kits" to all their cable systems nationwide, and distributing brochures about the transition at community and public events.

In February, the Commission adopted an Order that requires commercial and noncommercial full power broadcasters to provide on-air information to their viewers about the DTV transition by compliance with one of three alternative sets of rules. Although the sets of requirements are distinct, all require PSAs and the Commission found that they each entail a similar level of commitment and engagement on the part of broadcasters. For example, where the first option calls for more frequent PSAs, the second calls for longer ones, and the third for the same total amount of education but more flexibility regarding PSA length. All plans require quarterly reporting of both mandatory and voluntary outreach and education efforts. This will allow the Commission not only to monitor compliance, but also to stay informed of the creative approaches being taken by disparate broadcasters all over the country, and continue to coordinate transition education efforts.

The item also requires MVPDs to provide monthly inserts about the DTV transition in their customer billing statements. Phone companies participating in the Low Income Federal Universal Service Program also must provide notice of the transition to their low income customers and potential customers. The item also requires manufacturers of television receivers and related devices to provide notice to consumers of the transition's

impact on that equipment. In addition, we require the partners listed on the Commission's dtv.gov website such as NAB, NCTA, CEA and CERC, as well as the winners of the 700 MHz auction, to provide the Commission with quarterly updates on their consumer education efforts. Finally, the item states that we will work with the National Telecommunications and Information Agency (NTIA) to ensure that the retailers participating in the converter box program are appropriately training their employees and informing consumers.

In addition to our DTV Consumer Education item, the Commission is actively and directly promoting consumer awareness of the upcoming transition through its own education and outreach efforts.

The FCC's consumer outreach effort places an emphasis on consumers who receive their television signals "over-the-air" and on those who are hard to reach and may be unaware of the upcoming transition, including senior citizens; non-English speaking and minority communities; people with disabilities; low-income individuals; and people living in rural and tribal areas.

We have been forging partnerships, participating in media events, and attending conferences, to get the word out.

For example, in the beginning of July, DTV education posters will be displayed in all 34,000 post offices across the nation. The United States Postal Service estimates that an average of 9 million people pass through their post office lobbies each day.

We have also secured commitments from 25 states, the District of Columbia and Puerto Rico to display DTV materials in 1100 Department of Motor Vehicle locations. Specifically, we have secured commitments with Alaska, Arizona, Colorado, the District of Columbia, Hawaii, Idaho, Louisiana, Maine, Massachusetts, Missouri, Montana, Nebraska, Nevada, New Hampshire, North Dakota, Ohio, Oklahoma, Puerto Rico, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Washington, West Virginia, Wisconsin and Wyoming.

The FCC also distributed DTV transition awareness information that is being provided to all federal government employees. We estimate that this message will reach over 2.5 million federal employees throughout the country.

In addition, we have identified and contacted 150 mayoral offices in areas of the country with high concentrations of over-the-air households, to help them educate consumers in their communities. These efforts have thus far resulted in 29 cities making specific commitments ranging from posting and distributing DTV information in public locations and at events and conferences, to including information in newsletters and other publications, and establishing links to our dtv.gov website, and other efforts unique to their communities. For example, the Mayor's Office in Great Falls, Montana has

requested 21,000 DTV flyers from us to send to their utility customers along with their utility bills.

We also reached out to the country's major professional sports leagues and have received offers to help promote the transition. The National Football League (NFL), the National Basketball Association (NBA), the National Hockey League (NHL), Major League Baseball (MLB) and NASCAR all agreed to help raise awareness of the transition among their fans. For example, the NHL has agreed to run 30 second PSAs per day until the transition date on their cable channel the NHL Network.

Since the last time I appeared before you, Congress has allocated additional money to the Commission to spend on our consumer education efforts. We intend to put these resources to good use as these additional funds will allow the Commission to expand upon its current consumer outreach and education plan.

In February, a contract was awarded to Ketchum to support a broad range of consumer education services, including media services, publications, and distribution, that will assist and complement the FCC's ongoing work on educating all American consumers about the digital television transition. Ketchum has provided design recommendations to make our DTV messaging, including DTV.gov, more consumer-friendly. Other efforts through Ketchum will include billboards in targeted markets, grocery store outreach, and production of television and radio Public Service Announcements. Ketchum arranged a Satellite Media Tour in February on local television news around the country in states

such as Hawaii, Missouri, Texas and Florida to spread the message about the transition. From those seventeen interviews, which were aired between February 22 and March 2, Ketchum reported more than one million audience impressions. Ketchum will be arranging similar interviews throughout the transition to continue our consumer education efforts.

As I mentioned, we also know that some consumers will be disproportionately impacted by the transition or are harder to reach than the population at large. Therefore we have been taking specific steps to reach these groups. I would like to take a few minutes to describe our efforts targeted at each of these five communities.

Senior Citizens:

Senior citizens are more likely to have analog television sets and rely exclusively on over-the-air broadcasting. We have partnered with organizations that specifically serve this harder to reach population. Last September, we presented two DTV education sessions at the national AARP convention in Boston, and we have plans to make similar presentations at this year's convention in Washington, DC. In addition, late last fall, I was interviewed about the transition on AARP radio which is broadcast on 170 outlets nationwide reaching more than 1,000,000 people. I was also interviewed for, and quoted in the January/February issue of AARP's widely circulated Magazine, which has a circulation of 23.5 million. AARP is also regularly including stories on the DTV Transition in their Monthly Bulletins. Further, AARP will be distributing DTV

information at a series of eight "road show" events they will hold around the country from June to September of this year.

In addition to working with AARP, we have also been working with other senior organizations as well. For example, I taped a PSA for Retirement Living TV which reaches nearly 30 million homes nationwide. Also I participated in a story about the transition for the Erickson Tribune, which is distributed to residents in their retirement communities and is read by more than 6 million people. We are also pleased to be partnering with The National Association of Area Agencies on Aging (N4A) to cosponsor DTV awareness sessions during the coming year in conjunction with their 655 area offices throughout the nation. This is a useful opportunity to educate caregivers, social workers and others who care for the elderly in their communities.

In addition to working with these organizations, we have and continue to set up partnerships with many State Aging Offices. As a result of our efforts, 26 states, the District of Columbia, and Puerto Rico have agreed to conduct DTV outreach with the FCC in varying capacities, including distributing DTV information at conferences and events.

Commission staff located in field offices throughout the country are also working on DTV transition education and outreach. Starting last year, FCC field agents have held DTV Awareness Sessions and distributed information to senior centers, libraries and other local venues frequented by older Americans. Through the work of our field agents,

we have been able to reach these consumers in a total of 44 states – ranging from Alaska to Florida. We have already distributed information to over 3033 senior centers, and 985 community centers, which frequently include large numbers of seniors, and given nearly 589 presentations with 113 more scheduled in the days ahead.

The FCC also held a DTV Workshop focusing on seniors at FCC Headquarters on November 8, 2007. It consisted of two panels discussing the transition's effect on seniors plus exhibits hosted by other government and industry organizations. Based on the discussions and the relationships formed at that Workshop, we reached out to faith-based organizations, provided them with consumer education materials on the transition, and continue to follow up with them to answer questions on the transition.

And I'm pleased to announce that on May 28, 2008, along with Congresswoman Eleanor Holmes Norton, we will be hosting a DTV Town Hall Meeting for seniors in DC. We are working in conjunction with AARP, the DC Office of Aging, the NAB, and the National Caucus and Center for the Black Aged. The expected turnout is over 300 seniors from the District's Aging community.

Non-English Speakers and Minorities:

We also know that the Hispanic community disproportionately relies on over-the-air television. Of the approximately 14.3 million broadcast-only homes, about 16.5% are headed by persons of Hispanic origin.

The Hispanic Chamber of Commerce has agreed to join the Commission in conducting DTV awareness sessions at member chambers in the 15 U.S cities with the largest number of Hispanic TV homes. In addition, we have partnered with Univision to hold DTV awareness sessions at Town Hall meetings designed to educate members of its Spanish speaking audience. Through these partnerships, we will reach cities that are home to over 80% of Hispanic communities.

Additionally, we have taped several on-air interviews regarding the digital transition for Univision's news and public affairs programs airing both in local markets and nationally. These interviews were done by Keyla Hernandez-Ulloa the Commission staffer hired to spearhead outreach to the Hispanic community. We have been discussing the switch to digital on other Hispanic media outlets as well. For example, I did an interview with the Hispanic Communications Network, which produces material for radio, television, print and Internet, that will be distributed to its 230 member radio network in the United States and Puerto Rico.

We have also been working with other foreign language media outlets as well. To that end we have partnered with KTSF, a major Asian TV station in San Francisco. They have distributed 5,000 English and Chinese DTV one-page flyers at their booth during the Chinese New Year celebration events in late February. Approximately 100,000 people attended this festival. Also in conjunction with the California Public Utilities Commission, on May 22, 2008, we are participating with KTSF on a DTV educational panel for over 100 community leaders in San Francisco.

The FCC held a DTV Workshop focusing on non-English speakers and minorities on December 4, 2007. As a result of that Workshop, we will be working with the American Libraries Association to conduct a nationally available Internet seminar or “webinar” about the DTV transition today for librarians in the Webjunction Spanish Outreach Program. These librarians provide library services to Spanish speakers. Also, as a result of input received at the workshop, we translated our DTV one-page flyer into Hmong and Arabic (in addition to English, Spanish, Vietnamese, Chinese, Japanese, Korean, Tagalog, French and Russian).

In addition, we plan to participate in a number of national conventions representing non-English speaking and minority consumers in 2008. They include the 78th Annual Conference for League of United Latin American Citizens, the Annual National Hispanic Leadership Conference and the National Council of La Raza Conference, the NAACP Convention, the National Urban League Conference and the Organization of Chinese Americans National Conference.

People with Disabilities:

The Commission is continuing a multi-faceted approach in informing people with disabilities about the DTV transition. On February 28, 2008, we hosted a DTV Workshop dedicated to issues facing people with disabilities. The program featured panelists from numerous organizations whose missions are to work directly with, and

advocate on behalf of, individuals with hearing, vision, speech, physical, and intellectual disabilities. It elicited several concrete suggestions that we have implemented.

For instance, in response to the panelists' suggestion that we develop "how to" information related to the transition, we have drafted a step-by-step guide on how to install a digital-to-analog converter box, and posted it on the Commission's DTV Web site, www.DTV.gov. Similarly, in response to general questions at the Workshop concerning the availability of video description (descriptions for people who are blind or have other vision disabilities about the setting and/or action in a program when information about these visual elements is not contained in the audio portion of the program), we are in the process of drafting a consumer advisory specifically addressing that issue.

Another suggestion from panelists was that we utilize national service organizations to inform consumers about the transition. Indeed, we have initiated a partnership with the Corporation for National and Community Service, and with the United States Department of Agriculture's 4-H office. Finally, we will build upon our workshop by speaking directly to organizations that work with and on behalf of people with disabilities, at their meetings and conferences. For example, we are planning to attend the Summer Quarterly Meeting in Seattle of the National Council on Disabilities, which was represented at the February 28 Workshop.

I am also pleased to report that www.DTV.gov now features a DTV educational video in American Sign Language for the deaf and hard of hearing community. Our most commonly utilized publications are available in Braille and audio format and all of our fact sheets and advisories are available in large print. In addition, we have two specific publications addressing DTV and closed captioning, "Closed Captioning for Digital Television," and Closed Captioning and Digital-to-Analog Converter Boxes for Viewing Free Over-the-Air Programming on Analog Televisions." The Commission also has a dedicated email box for closed captioning questions at closedcaptioning@fcc.gov.

Commission staff continues to attend conferences to distribute DTV educational materials to people with disabilities. For example, the FCC has attended and provided DTV materials at the National Black Deaf Advocates Conference, the Vocational and Educational Services for Individuals with Disabilities Conference and the Emergency Planning and Response for Special Needs and Disabilities Conference.

In all, we are collaborating broadly with disability advocacy groups and outreach organizations. For instance, the Hearing Loss Association of America ("HLAA") is already linking to our DTV informational materials on its website, which receives approximately one million hits per month. In addition, HLAA has committed to publish later this spring an article on DTV and closed captioning in *Hearing Loss Magazine*, which is estimated to reach a readership of 200,000 people. Likewise, later this spring the article will be published in the "Blue Book" Resource Guide of Telecommunications for the Deaf, Inc. ("TDI"), with a readership of up to an estimated 100,000 people, and

eventually posted online at FDI's website, which receives approximately 88,000 hits per month.

Furthermore, HHLAA has 200 local and regional chapters around the country, and we plan to conduct DTV Awareness Sessions at their monthly meetings throughout the course of the year. We recently conducted one in Yuma, Arizona on March 11, one in New Orleans on March 15, and we have another 16 scheduled through the fall. We also plan to utilize our Enforcement Bureau's Field Office staff and CGB staff to distribute DTV informational and educational materials at HHLAA's "Walk4Hearing" events across the country taking place this spring through the fall.

Low Income Consumers:

The Commission is also taking specific steps to inform low-income consumers about the transition to all digital broadcasting. We have forged a partnership with the Department of Health and Human Services to assist the FCC in disseminating DTV material to target populations, including low-income consumers. HRSA (Health Resources and Services Administration) has forwarded FCC DTV information to approximately 4,000 grantee organizations, and the message also went out to groups like the state Primary Care Offices and Primary Care Associations and the National Association for Community Health Centers - organizations which represent many more non-Federally funded health centers and clinics nationwide. HRSA asked these organizations to post and distribute our DTV flyer in their clinics and to distribute information to patients. ACF (Administration for Children and Families) is distributing information through their 1,600

Head Start grantees, covering more than 18,000 centers around the country. The Substance Abuse and Mental Health Services Administration (SAMHSA) is distributing DTV flyers to approximately 50,000 individuals each month who call requesting information. Other HHS agencies are also distributing our flyers, displaying our posters and linking to our dtv.gov Web page.

We have contacted social worker associations in each of the 50 states, plus the District of Columbia and Puerto Rico, and thus far have received commitments from over 20 of them to assist us in getting the word out about the DTV transition. These include publishing DTV information in their monthly newsletters, distributing DTV materials at events and conferences, and establishing conspicuous links to our website, www.dtv.gov, so that visitors to their web pages can obtain more detailed information about the DTV transition and the steps they may need to take to prepare for it.

We have also reached out to representatives of the state health departments in each of the 50 states and U.S. territories, and thus far have received commitments from 8 of them to assist in distributing DTV awareness materials to the consumers they interact with on a regular basis. These include, for example, posting DTV materials in their service and waiting areas, distributing our fact sheets and other publications at events attended by consumers, inserting DTV information in mailings to consumers, and establishing conspicuous links to our website, www.dtv.gov so that visitors to their web pages can obtain more detailed information about the DTV transition and the steps they may need to take to prepare for it.

In late February, we posted a simplified DTV one-page flyer on our Web site, and have offered it for distribution to all our partners. This was developed in response to requests for a more streamlined, non technical, and easy to read DTV informational flyer.

In addition, on April 1, 2008, the FCC sponsored a DTV Consumer Education Workshop focusing on reaching low-income consumers. As a result of our panel discussions, we received several positive suggestions and offers of assistance from our panelists on how best to reach members of their constituencies with information on the DTV transition. We will be providing the organizations represented with DTV informational materials such as our posters, flyers, and fact sheets that can be displayed at their events and facilities throughout the country. The National Energy Assistance Directors Association offered to provide DTV information to low income consumers who sign up for their program. We also received a suggestion to submit translated DTV articles to local foreign language publications in cities that have high concentrations of foreign language speakers. Often, these publications are the primary source of news and public interest information for these consumers. In addition, as noted earlier, all eligible telecommunications carriers (“ETCs”) that receive federal universal service funds are now required to provide DTV transition information in the monthly bills of their Lifeline/Link-Up customers.

Rural and Tribal Consumers:

The Commission is also taking specific steps to inform people living in rural areas and on tribal lands about the transition to all digital broadcasting. For example, the Commission

recently established a partnership with the United States Department of Agriculture's 4-H office. On April 1, 2008, the FCC, with NTIA and USDA, participated in the annual 4-H Youth leadership conference and presented two "Train the Trainer" seminars to approximately 100 youth members of 4-H chapters from the various states. FCC staff provided information which these youth representatives and their colleagues back home can use to conduct awareness sessions in their communities. In addition, each participating representative will receive a "DTV Outreach Tool Kit" containing more extensive materials for conducting their outreach sessions. We understand that the DTV outreach that will be performed by these young community leaders will assist them in meeting the community service requirements of their 4-H membership. Another important component of our partnership with USDA is the placement of DTV transition educational materials at state and county fairs throughout the country via sponsoring 4-H chapters and local extension service professionals.

We also have forged a partnership with the Bureau of Indian Affairs. This collaboration has resulted in the distribution of DTV materials throughout Indian Country, utilizing all 50 of their nationwide area offices. Commission staff has attended and provided DTV materials at the National Conference of American Indians, and the Rural TeleCon Conference, with many additional events planned for this year such as participation in the National Association of Development Organizations in Alaska Conference and the Affiliated Tribes of Northwest Indians Annual Conference.

So far this year, we have presented at the United South and Eastern Tribes (USET) Annual Impact Week, in Arlington, VA and have distributed DTV materials at NCAI's Executive Council Meeting, in Washington, DC. We are also planning to sponsor an Indian Telecommunications Initiative (ITI) in Salt Lake City later this year.

Finally, on January 31, 2008, we held a workshop at Commission headquarters focused on reaching rural consumers and consumers living on tribal lands. We received many useful suggestions at this workshop on how to better reach these communities. For instance, our DTV one page informational flyer is being translated into Navajo, one of the most-spoken Native American languages in the United States.

CONCLUSION

The Commission is devoting significant resources to facilitate a smooth transition. Nearly every Bureau and Office at the Commission has been involved in this effort including our field offices throughout the country.

We intend to take whatever actions are necessary to minimize the potential burden the digital transition could impose on consumers and maximize their ability to benefit from it. The next 10 months will undoubtedly be challenging. Nevertheless, it is my hope that through the combined efforts of government, industry and advocacy groups American consumers will reap the rewards that the digital transition has to offer.

FUNDING FOR DTV EDUCATION

Mr. SERRANO. The FCC's 2009 budget request includes \$20 million for digital television education and outreach. The 2008 request was only \$1.5 million, and Congress increased that to \$2.5 million. I commend you for seeking more resources for DTV. However, the 2009 appropriations bill probably won't be enacted for quite a while this year, if at all. There are even rumors about a possible—if we get stuck, a possible resolution just to keep the government going, and then the next administration will deal with the appropriations issue.

So since the DTV transition is planned for 2009, February of 2009, has your request for additional funds come too late? When do you need the funding in order for it to be helpful in your DTV outreach efforts? And could you provide a spending plan for the \$20 million that shows how the funds are expected to be allocated among various activities?

Mr. MARTIN. Well, obviously, with the transition occurring in 2009, it is critical that we get the remaining money that would be utilized for the education efforts as soon as possible. To the extent that the Commission will operate under a continuing resolution, I think there would be a few options for us to try to seek additional funds for next year. The continuing resolution can include additional revenues for a specific purpose if Congress so wanted, so deemed it, so they could do that in the continuing resolution context.

The Commission has also in the past gone back to this subcommittee and asked for permission to be able to use—to be able to be authorized to use unspent revenue from previous years. We have already begun working with OMB to be able to go back and utilize some of the unspent revenues that the Commission has still in its resources and be able to be authorized to use those for educational purposes. It wouldn't be the full \$20 million, but we can go back and ask for some additional resources.

So I think we have got two other options to the extent that we don't operate under a continuing resolution. Of course, the Commission could end up providing as detailed a plan as you would find helpful on what we would end up utilizing those additional moneys for.

As you have indicated, we have just received \$2.5 million from the committee in December. We immediately began the contracting process. We have hired Ketchum as a public relations firm to help us begin a more widespread public relations and public information campaign, which includes both satellite media tours so that we can get on local news and local television news stations around the country. We have done one satellite media tour. They have helped us with beginning the additional distribution of materials at grass-roots communities; and we are working with other organizations, began the production of billboards and posters that will be able to be displayed as we are approaching the transition. So we can provide significantly more detailed information as you would need to see what we would do with the additional resources.

INDUSTRY ASSISTANCE IN DTV EDUCATION

Mr. SERRANO. I am still concerned, however. And you seem to paint a picture that says everything will be okay, but time is running short here, and there is still not the knowledge necessary out there in the community. Have you found the industry to be responsive in helping out? I mean, it is in their best interest.

Mr. MARTIN. Oh, sure. I think it is important to understand that what the Commission is trying to do is ask for additional resources that could be supplemented to target very particular communities that we think could be at risk for not making the transition successfully.

But the industries are taking significant steps. So you have broadcasters that have committed to about a \$700 million campaign that they will be undertaking that started in February through the following February with increasing amounts of information that is going to be provided in terms of the PSAs and screen crawls and information.

Mr. SERRANO. You said \$700 million?

Mr. MARTIN. Yes. The cable industry has committed to providing another \$200 million in public information campaigns. The consumer electronics industry is similar and participating in an industry-wide effort to increase consumer awareness. So what we are asking for is a small supplement, compared to what the industries are ending up doing.

And, as you said, there are different industries that have already taken an active role in it. The Spanish broadcasters have been very active already, for example, in beginning to run public service announcements. We have been coordinating with them and with the Hispanic Chamber of Commerce, for example, to do town hall meetings in the largest towns that have very large Hispanic populations. So we will be able to hit about 80 percent of the Spanish-speaking homes in those towns, in those town hall meetings.

So the industries are becoming very active. So this is only to supplement that, but I do think that it is a critical and important entity.

And I have worked with all the commissioners in coming up with this request. All the commissioners on the Commission have said, how much did you all think would be necessary for us to try to supplement our efforts; and the request that we put forth was what had been recommended and was the most money that we could possibly need over the next year.

EDUCATING MINORITY COMMUNITIES ON THE DTV TRANSITION

Mr. SERRANO. Let me ask you, based on that, what specific effort—since you did touch on it, what specific efforts would you promote to let minority communities know of this change that is coming, in view of the fact that the most recent surveys indicate that they are the last to know what is going on?

Mr. MARTIN. Well, with respect to the minority communities, it is not only important to make sure we are getting the message out, but they are much more likely to rely on over-the-air broadcasting. Spanish-speaking homes are twice as likely to rely upon over-the-

air broadcasting, as opposed to subscribing to cable or satellite. So it is critical that we are reaching out to them.

As I have said, we have already begun making sure that all of the information is being distributed and in multiple languages. We have been working on public service announcements with the Spanish broadcasters. We are going to be doing town halls with them and with the Hispanic Chamber of Commerce, for example, trying to target Spanish-speaking homes, as they are disproportionately likely to rely on over-the-air broadcasting.

Those are just some of the initial efforts.

Mr. SERRANO. Well, can you please keep the committee informed of what you are doing in that area? This committee would be very much interested in how we are moving along.

MEDIA OWNERSHIP CONSOLIDATION

Let me ask you one more question here. In December, 2007, the FCC voted to relax media consolidation rules to allow newspaper and broadcast company consolidation of the 20 largest media markets. My concern with this action is that we should be encouraging more diversity, independence and local perspectives in the media, rather than setting up greater consolidation and ownership by media giants.

I would also note that there were bipartisan calls in Congress for slowing down the FCC's consideration of this issue. But you have decided to proceed with the vote in December anyway. How do you respond to concerns in Congress and elsewhere regarding media ownership consolidation? And what is the FCC going to do to encourage greater diversity in media ownership, including ownership by minorities and women?

Mr. MARTIN. Well, let me respond in two ways, first in explaining why I thought it was important for us to proceed with the vote at the end of last year, and then also respond to the concerns about increasing minority ownership in the broadcast area.

First, I think that you have to put into context that this decision that the Commission issued in December of last year actually was quite different from the decision the Commission had issued in 2003, which infinitely increased the media ownership rules. In 2003, we increased most of the media ownership rules, allowing for increased consolidation in radio, television, television stations around the country in terms of the national cap. This decision, in contrast—that decision was ultimately overturned by the Third Circuit, sent back to the Commission with one exception; and that exception was that the Third Circuit upheld the Commission's decision in 2003 to remove the ban on newspapers being able to own broadcast properties.

That decision had been sent back to us in 2003 and had been pending for us to issue a new decision. There were, as you said, significant concerns that were raised by Congress. Congress actually overturned the Commission's decision in 2003 to raise the national ownership cap directly through the appropriations process. And this time the Commission, as I said, only raised one issue, only altered one rule and that was the ability of newspapers to own broadcast properties; and we did so in a very limited way.

The newspaper industry has been under significant financial strain as a result of the advertising dollars that are increasingly flowing to the new media platforms. You have seen about 300 newspapers go out of business since the Commission's original rule was put in place. Newspapers in some of the largest markets in the country were having significant financial difficulty. The San Francisco Chronicle, for example, was reported last year as losing \$1 million a day.

The newspaper industry is suffering significant problems, and one of the things that they thought could help their industry would be the ability to take the cost that they were spending on news gathering and help recoup those costs through the additional distribution of that news through other outlets, not only on the Internet but also through broadcast.

Because of the concern that people raised about that, that it would lead to increased consolidation, we limited our relief to the top 20 markets in the country in which we determined there are a significant number of media outlets that would already be available; and we said that newspapers would not be able to purchase one of the top four television stations in that market. So they were going to have to purchase one of the weaker or smaller television stations in those markets if they wanted to purchase a television station. So they were going to be limited to one broadcast property, they would not be able to purchase from the top four television stations in that market, and they would only be able to do that as long as there were eight remaining large voices in that market.

So I think that we put in place both adequate controls to make sure that we had a diversity of opinion in those markets but, at the same time, try to take into account that both the courts and the facts indicated that the newspaper rule that had been put in place in the 1970s had to be modified in some way to take into account the changes in the media marketplace today.

Mr. SERRANO. Well, let me just close by saying to you that we could discuss this all day. There are really two views on this. One is that we have to do something about the fact that the newspapers are folding up, so many of them. But, on the other hand, one would argue that it is the control by media giants that is forcing newspapers out of business, too. So, you know, it is a matter of opinion as to which one is causing which. So the more power you give to the giants, the more you might see local newspapers close down, local radio stations close down, local everything close down because they just can't compete.

I will recognize Mr. Regula; and then, because we have such a good turnout of members, we will adhere to the 5-minute rule. But not for Mr. Regula, of course.

D BLOCK AUCTION

Mr. REGULA. Well, just a few things. I have some questions on the spectrum auction. What went wrong with the auction of the D Block? And what does FCC do now?

Mr. MARTIN. Well, the Commission had tried to put in place a plan on the D Block—

Mr. REGULA. Yeah, I understand that.

Mr. MARTIN [continuing]. That would have allowed for whoever won that to work with public safety to try to solve interoperability problems, public safety challenges.

I think that, obviously, there wasn't enough certainty in that process of what those obligations were going to be or those obligations were too great for a private entity to be willing to purchase that spectrum and develop a partnership with public safety. So I think the Commission at this point has to go back and revisit those obligations, making sure that they are as clear as they can be about what the requirements will be on the person who wins and revisit whether they were too burdensome in terms of the amount of build-out that was required, the time frames for that build-out and the kind of services that they were going to be required to provide to public safety in order to establish that kind of a partnership.

I think that what is important there were lots of aspects of our auction rules that were controversial. That was one—the Commission was, you know, uniform on. It was 5–0 in support of trying to do something to try to solve the public safety's interoperability problems.

Obviously, the D Block didn't end up accomplishing that goal; and we have to try to figure out a way to revisit it to still try to accomplish that goal.

FIRST RESPONDERS' SPECTRUM

Mr. REGULA. Well, how would the sale of the spectrum help first responders' ability to communicate? And, as I understand it, the portion that was set aside for first responders had no takers. So we haven't solved the problem.

Mr. MARTIN. That is right. We haven't solved the problem.

The first responders were given 10 megahertz of spectrum to try to solve—by Congress and by the Commission—to help try to solve their interoperability problems, and what we were doing was auctioning off the piece of spectrum that was right beside it to a commercial provider with the hope of being able to form a joint partnership. What we heard from public safety is that one of the challenges for them in solving their interoperability problem was not only having access to spectrum but the fact they didn't have any resources to try to build out a nationwide network. So our hope was that whoever purchased the commercial spectrum right beside the public safety spectrum could form a joint partnership with them and allow public safety to utilize that network that they were building out. But, obviously, no one wanted to purchase that spectrum with that obligation, with the obligations we have formulated.

Mr. REGULA. Do you have a plan to somehow ensure that the first responders ultimately will have a piece of the spectrum?

Mr. MARTIN. Oh, I think that what we need to do is go back and—absent some other kinds of legislative change from Congress that would give them more direct resources, we would have to go back, I believe, and try to reformulate the current kind of joint proposal with the commercial sector and the public sector and then utilize that joint venture again. But we have to reduce, obviously, the uncertainty and the obligations to try to see if we can attract someone to take on that obligation.

DEMAND FOR SPECTRUM

Mr. REGULA. As I understand that, the \$19.6 billion raised was substantially higher than the \$10 billion congressional estimate. To what do you attribute this demand? And what happens to the \$19.6 billion?

Mr. MARTIN. The \$19.6 billion all goes into the Federal Treasury. So all of it is directly deposited into the Treasury. So it is to the benefit, you know, of the taxpayers and of the country.

And I think the demand can be attributed to several factors. I think, first, the Commission, it talks about the importance of this piece of spectrum. This is the spectrum that the broadcasters are giving back as a result of transitioning to digital next year, and the characteristics of the spectrum allow it to carry a lot of information and that information to travel more easily through walls.

Mr. REGULA. The digital requires less spectrum, is that what you are saying?

Mr. MARTIN. When they are able to switch over from analog to digital, the broadcasters can do it in less spectrum overall because of some of the technical aspects of digital. So we took that extra spectrum we got back and auctioned it off for other wireless commercial services, wireless broadband services predominantly. So the demand for it was great because of these technical characteristics; and, also, I believe that the demand was great because of some of the other changes we made in setting up the auction.

One of the most important changes we made was adjusting the power limits to make sure that all of it could be utilized and provide broadband services. We put in place a condition that a piece of the spectrum had to be open to any kind of device or any kind of application to try to further incentivize the innovations that were occurring on the edge of the network.

And, finally, for the first time at a significant auction the Commission actually required there to be blind bidding so that you didn't know as you were going through the bidding process who the other parties were that were bidding. There were some allegations that companies, when they saw that they were up against one of the biggest or largest wireless companies in the country, Verizon wireless or AT&T wireless, that they would just stop bidding. So we implemented a mechanism of blind bidding so that when we were auctioning off each geographic area you didn't know who the other person was bidding against you, and we think that that also contributed to raising significantly more revenue.

DISTRIBUTION OF AUCTIONED SPECTRUM

Mr. REGULA. Did the independent providers get a piece of this? Or did it pretty much go to the big ones?

Mr. MARTIN. Well, the largest providers certainly purchased some of the largest cities. But of all of the licenses that we auctioned off, there were about 99 other carriers or other participants in the auction who won about 70 percent of the licenses; and someone else other than one of the four big wireless companies today won licenses in every market in the country. So other people did get pieces of it. Indeed, about 55 percent of the people who won spectrum at the auction qualified as small business entities or des-

ignated entities under our rules, where they actually got a bidding credit for being a small business entity.

PUBLIC SAFETY NETWORK

Mr. REGULA. One last question. And, obviously, the first responders are a very important element of public safety; and I assume you are working on some way to ensure that this happens, is that correct?

Mr. MARTIN. That is right. We are.

You know, this was a critical part of the 9/11 Commission's report that said we need to solve this interoperability challenge. This is the only tool the Commission has to try to solve it. We can't provide direct support. We can't take, for example, any of that \$19 billion. We are required by law to provide it into the Treasury. We can't take it and say we are going to help public safety build out a network. So, as a result, our only option is to try to solve it through this joint public-private partnership. So, absent some other effort by Congress, I think this is the only idea that we have within our authority to solve this problem.

Mr. REGULA. Thank you, Mr. Chairman.

Mr. SERRANO. Thank you.

PIRACY AND CHILD PORNOGRAPHY ON THE INTERNET

Ms. WASSERMAN SCHULTZ. Thank you, Mr. Chairman.

Chairman Martin, we all care about the Internet; and I want to focus on peer-to-peer file sharing and piracy and child pornography for a second. I am one who took a position in the 109th in favor of network neutrality, because at that time I really believed there was not enough competition to warrant letting Internet providers cordon off bandwidth to that significant degree or spectrum for premium access. And to me the principles of network neutrality make sense when we ensure that Internet service providers don't strike up deals that favor certain companies over others or prohibit consumers' ability to access lawful content.

But the idea of network neutrality should never force ISPs to actively ignore what is unlawful or speech that they know is unprotected, and what I mean by that is incidents of piracy and child pornography. The piracy challenge, obviously, you are familiar with; and it is a significant one. But child pornography is not as widely known.

You might not know this, but there are literally more than 500,000 individuals in the United States who are trading and trafficking in images on the Internet in child pornography, and I mean that is images of young children being raped. That is not free speech or something that is legal. They are crime scene photos. There are people trafficking those images all over the country in the shadows with peer-to-peer file sharing programs like BitTorrent. And law enforcement knows who these individuals are, but, for lack of funding, they are not able to go and get them.

I sponsored legislation that passed the House already which you may be familiar with which we are hoping to have move soon in the Senate, but we can't begin to contain this problem until we use every resource that we have at our disposal. And I was really glad to read in your statement that there was an agreement between

Comcast and BitTorrent and your comments that network managers have the important ability to block the distribution of illegal content, including pirated movies and music and child pornography.

It is difficult to craft rules managing computer networks that have become indispensable to our lives, but whatever management practices that we have, have to be limited and practicable and implementable but at the same time be effective in blocking unlawful content like pirated music, movies and child pornography, and that is not an easy balance.

What I want to ask you is what ideas do you have for giving network managers the ability to block the distribution of illegal content and how do we fashion principles that will continue Internet innovation but that also will not prohibit corporations from addressing the dangerous threats of online product piracy and child pornography?

Mr. MARTIN. Well, first of all, I am somewhat familiar with some of your other efforts of trying to address things like child pornography; and I certainly commend them. And I completely agree that all of the network neutrality principles that the Commission has adopted only go towards lawful content. There is no protection for the distribution of any kind of unlawful content whatsoever when you are talking about either child pornography or even content that doesn't have appropriate copyright terms for it. So it is only lawful content that is protected.

So, in the context of lawful content, some carriers have announced, for example, that they have been looking at and exploring options for putting on the kind of filters that would try to distinguish between lawful and unlawful content. I think AT&T had made some announcements about that earlier in the year where they were looking at whether filters like that could be put in place.

But any kind of network management issues that go towards distinguishing between lawful and unlawful content don't violate any of the Commission's principles and don't raise any issues.

FILTERING ILLEGAL CONTENT

Ms. WASSERMAN SCHULTZ. Are you using the bully pulpit of your position to encourage the development of filtering software and making sure that you raise the level of priority on that?

Mr. MARTIN. Oh, I think that—yes. And I don't think it is any problem whatsoever for network operators to engage in those kinds of practices. However, but I do think it is more of a challenge if they start trying to address particular applications; and if they just start saying that they are going to discriminate against a particular application, I think that raises different issues. And it goes more towards the concerns that were embodied in our network neutrality principles and that were embodied in the network neutrality legislation that you referenced also in your comments.

Ms. WASSERMAN SCHULTZ. If you could address my second question, how do you strike a balance between not stifling Internet innovation but not prohibiting corporations from making sure that they can stop online piracy and child pornography?

Mr. MARTIN. I think, first, we strike the right balance by making clear that there is no problem in whatever actions they want to

take in stopping child pornography and other forms of illegal content. But I think when we are looking at that, obviously, their efforts have to have a fit or they can't be overinclusive and underinclusive. In other words, they can't just say they will try to stop all content because they are trying to stop the illegal content.

CLARIFYING PROTECTED CONTENT

Ms. WASSERMAN SCHULTZ. Do you expect that you would craft language that would clarify as we move forward what could be protected and what the companies could do?

Mr. MARTIN. Sure. I think in our network neutrality principles, we have already said all of this only applies to lawful content and any request by law enforcement to stop any kind of content needs to be respected. So I think we have already said that, but we will continue to reiterate that at every chance whenever we are dealing with this issue.

Ms. WASSERMAN SCHULTZ. Mr. Chairman, before my time expires, I would just encourage the Chairman of the FCC to, like I said, use the bully pulpit that you have to ensure that we can continue to push these providers to ensure that we have the ability to block piracy and illegal content and child pornography.

Mr. MARTIN. Oh, sure.

Ms. WASSERMAN SCHULTZ. Thank you.

Mr. SERRANO. Thank you.

And now a future Spanish language broadcaster, Mr. Kirk.

E-RATE PROGRAM

Mr. KIRK. I am looking forward to my job at Telemundo.

Mr. Chairman, first of all, I want to just thank you for the quick deployment of the Do Not Call rule. I think you have restored peace to the American household, and I really want to thank you for that.

I was struck by the indictment of a school official in my district for fraud committed against the E-rate program; and I then began to look into this program and found that the GAO reported that the FCC's establishment of E-rate with an organizational structure unusual to the Federal Government and never conducting a comprehensive assessment to determine its requirements, policies or practices, that the corporation that administers it has struggled to determine fiscal accountability requirements under the program.

The Inspector General says, obviously, while all U.S. programs have the potential for mismanagement, E-rate, due to its materiality and initial assessment for potential of waste, fraud and abuse, has been singled out for particular attention. GAO says FCC's oversight mechanisms contain weaknesses that limit the management of the program or the ability to understand any fraud, waste and abuse within it.

Of course, this is all funded by a tax on telephones; and so all of this fraud makes our phone bills go up. The OIG in its look at USF programs cites erroneous payments: Contributor payments erroneously made, \$385 million; erroneous payments to schools and libraries, \$210 million; erroneous payments for high cost, \$618 million; erroneous payments for rural service, \$4.4 billion. You know,

hundreds of millions of dollars the OIG has said have been made through erroneous payments.

Now I know, you know, you have principal enforcement authority with the Enforcement Bureau under section 254. But I would note apparently now the furious action by the Department of Justice that has an antitrust division and task force already nailing people connected to this program for fines totaling over 40 million bucks.

Now you have got an increase before the subcommittee that you are requesting a \$1.9 million increase and a transfer of 25 million bucks. But I would say if this large amount of Federal funds is incorrectly designed, no amount of oversight funded by this committee can prevent that record of mismanagement.

I understand that we are going through looking at the procurement process under E-rate. But under USAC's recompetes, there is no proposal to increase or modernize the fraud, waste and abuse provisions of the contract. So, given all those problems, can you talk about what is going on with E-rate?

Mr. MARTIN. As you indicated, the GAO has found that the way the Commission had set up the Universal Service Program and the E-rate program back in the late 1990s was unique in that we were requiring the collection of revenue—

Mr. KIRK. I think the technical term would be “funky.”

Mr. MARTIN [continuing]. But the collection of revenues and that was being distributed not by the FCC itself but by a separate corporation that had been set up. I would have to get you exact details, but there were both congressional issues related to it—Senator Stevens I think had requested the GAO audit originally in the late 1990s. There were lawsuits that were brought against the E-rate program originally, that it was an unlawful tax. So there were lots of issues that arose in the late '90s about that program and the way that it was originally set up and structured and the legality of it, and the program changed in certain ways both to respond to court cases that had been brought and congressional concerns.

The program has been structurally set up in basically the same way since that issue settled down in the late '90s and in 2000. What has increased is the concern by the Department of Justice and by others that that structure and the fact that the E-rate program is a grant award program, as opposed to a reimbursement for cost by carriers program, has led to increases in fraud in that program; and that was what led the Inspector General several years ago to request a significant increase both in his budget and what the committee ultimately appropriated was taking money from the E-rate and was allowing the Inspector General to use it for its waste, fraud and abuse investigations.

I think that we obviously support the Inspector General's request and think that that has had somewhat of an important difference in both him identifying waste, fraud and abuse and him working with the Department of Justice going forward.

Mr. KIRK. If the program is fundamentally flawed and you have got dozens and dozens of criminal indictments for people who have illegally removed money from the program, can we appropriate our way out of this through IGs? Or don't we need a basic restructuring of the accountability?

Mr. MARTIN. I think that there have been those in Congress who have argued for a basic restructuring of the Universal Service Program, particularly the E-rate for years; and I——

Mr. KIRK. I guess I am not looking—because I know how difficult a legal legislative change would be in an election year. When we look at the re-procurement under USAC and oversight of fraud, waste and abuse, that is now directly within your jurisdiction. We don't need legislation to do that.

Mr. MARTIN. I don't think, besides what we have done through the Inspector General's office, we probably have the authority to make some kind of changes.

The one change that I would say and I have advocated for a long time that the Commission has tried to make is to change the program from a grant program to one that distributes money based upon a formula response like we do lunch money to schools and that we base that distribution instead of upon grants that people are applying for money and say this is what they will do with it, which I think leads to waste, fraud and abuse, and rather change the structure of the program so it distributes that money based upon a formula of how many poor children and how rural your area is. And I think that would allow schools more flexibility and, at the same time, get away from the grants which I think have led to those challenges.

Mr. KIRK. Thank you, Mr. Chairman.

Mr. SERRANO. Ms. Kilpatrick.

EXPANDING DTV EDUCATION PROGRAMS

Ms. KILPATRICK. Thank you, Mr. Chairman.

I like the E-rate program. I think it has helped education institutions all over America, certainly in Michigan. Not without problems, and I think we correct those as we go, and I am happy that the Auditor General is taking a look at it and is doing what needs to happen.

I notice your budget is \$25 million more than it was last year with fewer employees. So my first question is, where is the \$25 million going to be distributed? Is there one, several places or what is——

Mr. MARTIN. The bulk of that increase is actually going to be for an expansion of our DTV education program. So \$20 of the \$25 million is actually going to be focused exclusively on trying to provide additional resources to educate consumers throughout the country as we are approaching the 2009 transition.

Ms. KILPATRICK. Which was where I was going next, to DTV, February, 2009.

Mr. MARTIN. So the bulk of it is going towards that.

Ms. KILPATRICK. Okay. And how will that be disseminated? How does that work?

Obviously, education. It is my understanding that cable TVs will continue to operate. Analog, which a lot of people still have. So what kinds of things? And how can we plug in to help get that message out?

Mr. MARTIN. I think that there are several different things that we have begun trying to work on to try to educate consumers, and I think these kind of funds could help supplement dramatically. So

Congress and through this committee we were appropriated \$2.5 million last year to begin the education campaign, and that allowed us to get a contract with Ketchum, a PR firm to begin that education process.

Ms. KILPATRICK. Was that bid? Was that contract bid?

Mr. MARTIN. That was put out for bid. Absolutely, put out to bid through the normal contracting process. The only thing we did, the only change in it at all, was it was a shorter time frame than sometimes contracts are put out but only because we had such an urgency to try to get that money put into place to be able to utilize to start educating our consumers as we are fast approaching that deadline. That is going to be utilized both for media tours, for increasing education and awareness by getting public service announcements and other kinds of media done at the local level.

We have already had one media tour, and we are working on doing public service announcements that then will be placed and also through more grassroots kind of education efforts through billboards and particularly in communities that have high over-the-air television populations, that have high numbers of consumers that have over-the-air television, as opposed to subscribing to cable and satellite. Through working, for example, with the distribution through companies that put the flyers in advertising at grocery stores, on the back of grocery store carts, working with the Postal Service. We are going to be putting out thousands of posters starting this coming summer in every post office throughout the country.

We are going to be working to get posters and information that is going to be delivered to over 25 States throughout the country to every division of their Department of Motor Vehicles. Every time someone goes in to get a license renewed or to renew their, you know, license plate or their license tag, we would have information that we would provide to them.

Ms. KILPATRICK. Okay. Thank you.

I think that is an excellent way to start. I really want you to consider helping to set up in our offices. I am sure all 435, probably all 535, would like to be of help as you disseminate some of that if we can partner. It not only gets the information mobilized, but it also increases better relationships with us and the FCC. I hope we will do that together.

Mr. MARTIN. Absolutely. We will work to make sure we work with yours and all of the offices.

INTERNET BLOGS

Ms. KILPATRICK. Finally blogs on the Internet. The reality is, it is what it is. And I just don't see much—or maybe you can, maybe it is free speech, say anything if its right or wrong or whatever. What is your take on the blog generally, the Internet in particular? Actually, it could be another excellent education tool.

My 6-year-old grandson is a whiz. He can do all the stuff. But I am concerned that it doesn't have much regulation, kind of like my colleague on this side. How do we keep it growing and growing and be a positive tool? And what might be the FCC's role in seeing that it doesn't get out of hand, used negatively?

Mr. MARTIN. Well, I think that obviously, as I was discussing earlier, making sure that we clarify that any kind of illegal content is—it doesn't have any kind of protection in terms of limitations on what the operators can end up doing to manage their networks I think is important. But in terms of if it is legal content but there are blogs that people have information out there. There are lots of blogs that criticize me for everything the Commission does.

REGULATING BLOGS

Ms. KILPATRICK. Join the club. We are part of that.

Mr. MARTIN. Those are difficult. But, at the same time, I think we have to put that in the context of, unlike the mass media, which has certain kinds of rules and limits as to how you can put information out, like what you can say on broadcast TV or broadcast radio—

Ms. KILPATRICK. Okay. And that came as a result of its being formulated. Now that we have another entity, how can you do likewise with this? Or can you?

Mr. MARTIN. I think it is difficult, and I think that this medium presents other kinds of challenges. Unlike the mass media, where there was one person who was producing information and then trying to distribute it to everyone, this information is stuff that is frequently—you are pulling down—people are searching it out and deciding they want it and pulling it down. So that creates different first amendment standards than it does when someone is pushing content to you versus when it is something that you have chosen to go do a search for and find. So that raises more difficulties when the government talks about trying to have any kind of standard of what is appropriate and what is inappropriate, the terms of content. Not when it is illegal but in terms of its content.

I think that what I would say is that you do see increasingly developing the Internet on its own ways in which the Internet and technology is trying to find ways to solve the problem, if what you are talking about is reliable information. So that things like Wikipedia, which is the encyclopedia online, is something that the users themselves can update and change to the extent that they believe that it is something that is inappropriate—or it is not inappropriate, it is incorrect.

Ms. KILPATRICK. Or unreliable.

Mr. MARTIN. So what you are seeing is a different kind of approach that is developing with these new technologies to try to solve the reliability problems where things that are being put up are able to be altered. So what you rely upon are users in a different way being their own monitor and actually making sure that the information is reliable, but it is a very different medium, and it presents different challenges.

Ms. KILPATRICK. And almost impossible to regulate.

Thank you, Mr. Chairman.

Mr. SERRANO. See, I was just going to do this.

Ms. KILPATRICK. I saw the motion.

Mr. SERRANO. Mr. Alexander.

Mr. ALEXANDER. Thank you, Mr. Chairman.

INFORMING PEOPLE OF THE DTV TRANSITION

Mr. MARTIN, MS. Kilpatrick asked what I know about the digital transition. For those of us that represent large rural areas where people don't have access to Internet, so they certainly wouldn't benefit by going on a Web site, what can we, as Members of Congress, do to get that message out there?

Mr. MARTIN. Well, certainly I think it is important that the Commission try to work closely with you all to help get the message out; and we will help to provide any kind of information to actually go into people's districts and make sure that we are participating in getting information out to community centers and town hall meetings. We would be happy to work with any Member who wants to.

The Commission has already tried to start doing that on its own. Our field offices have gone through almost 45 different States and have distributed information, for example, to every senior center and community center there. So we have visited over 4,000 senior centers and community centers throughout the country where we have provided information; and we could be providing more information, putting up more posters to the extent that we are able to get some additional funds. And that is the kind of thing that we could be doing; and to the extent that we can work with you to make sure we have hit the most important parts of your district, I think that is one thing that we would be happy to end up working on.

We have also tried to figure out ways to work with local grassroots organizations that focus and/or companies that focus and target on rural areas. So, for example, we have been trying to work with the people who receive universal service funding to make sure that they are putting flyers or billing inserts in their bills to make sure that they are telling people that this transition is coming. Obviously, that is money that frequently focuses on people that live in rural areas.

We have also partnered with the Department of Agriculture and 4-H to try to emphasize, and we have actually worked with them so that we have made one of the 4-H programs for young kids one of their public service requirements. They can fulfill their service requirements by participating in the local DTV education efforts. And we have also been working with them to try and make sure we are distributing information at all the local county and State fairs throughout the country this year, which often targets rural populations. Those are some of the efforts we are trying to focus on in rural communities in particular.

FCC PRIORITIES

Mr. ALEXANDER. Senator Stevens said yesterday that this should be a top priority. But I am assuming from your testimony and the amount of money that you are putting into this that it perhaps is.

Mr. MARTIN. Absolutely. And in response to Senator Stevens' questions yesterday, I said it was.

Obviously, it can't be our exclusive. There are some other critical issues. For example, solving the public safety interoperability issue. I would have to say it is at least as equal priority for us this year.

I think that there are other priorities, and public safety is always one that I put at the very top of our list. But certainly the digital transition over this past year will be at the very top.

IN-FLIGHT USAGE OF CELL PHONES

Mr. ALEXANDER. Okay. Dealing with another line of communication, I saw a news item the other day perhaps that the airline industry is going to offer to its passengers in the near future the ability to use your cell phones while in flight. Do you know anything about—

Mr. MARTIN. The Commission had opened—there are two sets of rules that prohibit consumers from using cell phones on flights. Both the FCC and FAA have rules on that. The Commission opened a proceeding several years ago asking, should we eliminate our restriction? And we decided not to. We left it in place. Our restriction is concerned with interference, that it could create actually also on the ground to existing wireless providers on the ground as planes were above.

I think the article you might have seen in the paper talked about the changes that European regulators were making to allow people to make use of cell phones on flights. At this point, the Commission doesn't have an open proceeding on it; and, more importantly, the FAA I think indicated that they have no plans to change their role here in the United States. So I don't anticipate that changing anytime here in the near future.

Mr. ALEXANDER. Okay. Thank you.

Mr. SERRANO. Thank you.

Mr. Hinchey, early January of 1975, we got sworn in together to the State assembly; and here we are 35 years later, trying to get it right.

Mr. Hinchey.

CONCENTRATION OF MEDIA OWNERSHIP

Mr. HINCHEY. You obviously have gotten it right, Mr. Chairman. We very much appreciate that.

Chairman Martin, thanks very much for being here; and I want to express my appreciation to you. You do a very, very important job.

One of the problems that I think we are having, though, is an example of a conflict with the basic principles of the Constitution of our country. The First Amendment makes it clear that openness and freedom of expression and the availability of various forms of information are critically important for the future of any democratic republic and certainly very critical to ours. Over the course of the last 20 years we have seen this diversity very much restricted, beginning in 1987; and, as a result of that, now we have a handful of major corporations that control more than two-thirds of all the media in the country. So you have about six people in effect who are making the decisions as to what kind of information goes out.

That was a very, very big mistake; and it is something that the Federal Communications Commission should be focusing its attention on to alleviate, to open up, to make it less restrictive.

But in November of last year, November 13, you posted a notice on your Web site that you were going to engage in increasing concentration of ownership, newspapers and broadcast stations; and I believe it was just over a month later that you actually put that process into play. There is a lot of that that I find troubling and very worrisome in the way that that has been handled.

I think these rules that just passed recently were done so under a flawed process, and I think the consequences of that is likely to substantially undermine, and increasingly, the independence and diversity of journalism in our country. There is a whole host of things that I would like to talk to you about with regard to that.

The conditions of news protection and editorial expression are something that has become melded in the context of most of the broadcasts in our country, particularly television, where you have people who are alleging to present the news but what they are doing is presenting editorials, presenting their viewpoints, their point of view. Will the FCC be prepared to reject the license renewal application if the conditions of news protection and editorial separation are not met? And, before you answer that, would you describe what those separation elements need to be?

Mr. MARTIN. I think you might be referring to the separation elements—you are talking about in the waiver process in the rules that we adopted?

Mr. HINCHEY. Yes.

WAIVER PROCESS

Mr. MARTIN. I think that what you have to put into context for me to answer that is the situation that you are describing. The Commission said that in markets that were smaller than the top 20 markets we would allow someone to apply for a waiver to still purchase a newspaper and a broadcast property if they could demonstrate that they were going to increase the amount of local news on those properties. So that to the extent that, for example, a broadcaster was not putting on any news at all anymore, that to the extent—and we added specific amounts of what they would have to do, the amount they would have to increase. And we said, to get credit for that amount of increase, you will have to demonstrate that you had a separation of the editorial function.

And we actually looked towards Congress' previous act when they had passed the Newspaper Preservation Act in which they had said that there were certain structural limitations they put in place when they allowed two newspapers to merge that were trying to preserve editorial content separation, and so we said we would kind of mirror those standards, and we were looking at making sure that that editorial content was—

Mr. HINCHEY. Well, the expression of that idea in the context of that waiver gives you the idea that you have some intention to separate what is supposed to be news and what is supposed to be opinions.

Mr. MARTIN. It was in the context of separation between the two entities to make sure that there were going to be two new—if the idea was we would allow a waiver in those circumstances, because there would be a new increase or the new voice in the market, then

that had to be a true new voice so they had to have a certain amount of minimum content.

SEPARATION OF THE EDITORIAL FUNCTION

Mr. HINCHEY. Do you think that the FCC should engage in any insight into the way in which broadcasters behave now with regard to the difference between broadcasting information and providing opinions on that information?

Mr. MARTIN. I think that, outside of the particular waiver process you were—I was just describing just in general.

Mr. HINCHEY. Not in the context of the waiver process. In the context of the existing standard set of circumstances that exist out in the media right now, where you have so many broadcasts that allegedly are giving information, but, at the same time, they are really driving home their opinion of what the circumstances ought to be.

Mr. MARTIN. I think that it becomes very particularly dangerous as it relates to the first amendment responsibilities the Commission has if we are going to start reviewing their news content and determine whether they are distributing news and information or distributing an editorial opinion. One of the areas the Commission has been most hesitant to get involved in, even with broadcasters who have more limited first amendment rights, is in their distribution of news.

Mr. HINCHEY. Have you ever said that to any particular broadcaster, that they should separate the broadcast information from opinion?

Mr. MARTIN. I don't believe that the Commission has, no. I don't believe the Commission has a standard on that.

Mr. HINCHEY. I would be surprised if you had.

So the whole question of this waiver process and the idea that you are now going to focus attention on the difference between providing factual information and providing some kind of bogus opinions and alleging that they are connected in some way doesn't seem to make any sense because there is nothing like that that you have ever done in the past, not just you but prior commissioners, going back now for more than 20 years.

Mr. MARTIN. I think it only makes sense in the context of why we were granting the waiver. This process was actually something that had been advocated by some of the consumer groups in saying the only circumstance they would see in which they should allow cross ownership—

Mr. HINCHEY. I understand that. Consumer groups are trying to get their opinions paid attention to. And so, in response to that, you put this information in saying that you are going to do this examination. But there doesn't seem to be any confidence that should be applied to that statement, because nothing like that has been done, either under your chairmanship or under the chairmanship of anyone who proceeded you, basically, over the course of the last 22 years.

Mr. MARTIN. Well, I think that is one of the reasons why it would only be in the waiver context where we would be looking at the exact facts of what someone was proposing and ended up doing.

Mr. HINCHEY. Time flies, Mr. Chairman.

Mr. SERRANO. Thirty-five years. It is incredible. Mr. Bonner. You thought we would never get to you, right?

Mr. BONNER. Mr. Chairman, I am just amazed that your State doesn't have a minimum age to begin public service. You could not have been in public service 35 years.

Mr. SERRANO. If I had learned to speak English earlier, I could have been elected at 22. But it took a while.

DO NOT CALL PROGRAM

Mr. BONNER. Chairman Martin, since Representative Kirk threw out a comment, a positive comment, about the FCC's role in the Do Not Call issue a few months ago, let me follow that up by asking, is there any practicality in extending the Do Not Call restrictions to benefit businesses and not only residents? I have had a number of constituents in my district who have expressed concern about the number of calls that their businesses receive, some of which they consider to be fraudulent solicitations. And is that something that y'all have considered?

Mr. MARTIN. I don't think that the Commission has been actively considering that in the context of extending our Do Not Call system. I think more and more of it has been focused on the consumers. Obviously, that is something we will take back; and we will see how many complaints we are getting in that regard.

Mr. BONNER. That would be great.

LOCALISM RULES

I don't know if you have received it yet or not, but you will soon receive it if you have not, a letter signed by many Members of Congress circulated by our colleagues, Representative Mike Ross of Arkansas and Representative Marsha Blackburn of Tennessee, expressing some concerns that we have about the Commission's consideration of a radical, in our view, re-regulation of our Nation's broadcast system and impending localism proceeding.

Let me just say at the outset, I have taught a journalism class, broadcast journalism class, in Springfield College in my hometown of Mobile, Alabama, on Mondays, spoke with 17 future journalists; and I am a great believer in the role and the sanctity, if you will, of local broadcasting. And I am concerned by what it appears to be the Commission's consideration of what I would deem potentially severe economic impact of some of the proposed localism rules, including, for example, reinstating the main studio rule that the FCC concluded was too restrictive more than two decades ago. Any initial thoughts on this?

Mr. MARTIN. There were three main points that the Commission considered making changes to that I think that you are referring to that many of the broadcasters are concerned about. One of them was requirements about broadcasters having local studios, one making sure that broadcasters had someone who was available 24 hours a day potentially, and another—well, I will let you create the others, but let me respond to those two, for example.

Those two were concerns that had been raised at the Commission as it resulted in an increasing amount of local broadcasters who actually were putting on content that was just getting piped in from somewhere else and whether we should make changes as a result

of that because it was no longer local content; and even though they had a DJ on the radio who was potentially talking about what occurred in the local community, he was actually someone who wasn't living in that local community, was actually living on the west coast somewhere with that information being piped in from a distance and that that wasn't reflective of the character of local broadcasters. And that was one of the reasons we asked about—was the main studio rule, for example, a way to try to address that concern that was being raised increasingly by the viewing public.

Similarly, there were instances that happened, one in Minot, North Dakota, in which there were allegations that there was a train wreck, there were some chemical fumes that were released in the community. They were trying to tell citizens in the middle of the night not to leave their homes, and there was no one at the local broadcast station to put out the emergency alert. It has been back and forth. The broadcaster says it wasn't their fault. It was the local first responders. It was the local police department's fault for not triggering the right alarm that brought the—that they say it was the broadcaster's fault.

Without getting into that, it certainly highlighted a concern to the extent that local broadcasters don't have anybody there. When the police went and knocked on the door and said, hey, we need to get the emergency alert out, there was no one there.

Mr. MARTIN. And I understand that they are saying someone has to be there 24 hours a day to increase the cost; but at the same time, I think an important public interest obligation of broadcasters is that they are actually in a position that, under all circumstances, they can tell the people in that community that there is an emergency and they need to be prepared to respond to it. And I think that is probably not too much to ask of local broadcasters.

Mr. BONNER. I would agree. It may not be too much to ask in terms of the public service they provide, but it is going to be a tremendous additional burden. Again, the only reference point I have is in my district, but the major affiliate stations in my district have had to shave off, everywhere they can, cost. And it seems like to me that we are now giving them a burden of an additional cost that may not, 365 days out of the year—I mean, I live on the gulf coast, so we know a little bit about hurricanes. And there are certainly times when it is incumbent upon the station to provide that 24-hour emergency technician, if you will, there.

But in any event, I just wanted to raise that issue with you, because the broadcasters are not the only ones who are concerned about the additional burden it would have. And I think you will see that in that letter.

NEW RENEWAL PROCESSING GUIDELINES

As a follow-up to that, the localism report, do you have any concerns about the first amendment issue with regard to this? When the Commission eliminated content-based renewal processing guidelines in the 1980s, it did so in part because of concerns that these guidelines raised serious first amendment issues.

So my question would be, do you think that your proposed new processing guidelines, which appear, at least to me, to be more on-

erous in detail than those guidelines previously eliminated by the Commission, are appropriate under the first amendment?

Mr. MARTIN. I do. I think there are only two related issues. The Commission has had, for a while, that broadcasters are required to fill out certain kinds of forms about the kind of content that they are putting on, responding to local community concerns. We did alter the form to make it more detailed. We didn't set any minimal amounts that broadcasters were required to put out on any different kinds of information, but we did alter the form to say we wanted them to provide more information about how much of what they were doing was local, local public affairs and local news, versus—and local-originated content. But there weren't any minimums, so I don't think it violates the first amendment.

The only minimum was we did ask, should there be some minimum requirement on broadcasters during their entire 8-year license term to do something local for your community? And I actually believe that that is incumbent upon the local broadcaster to say he is willing to do something local. But I think that that is the only one bit that I think implicates it.

Mr. SERRANO. Thank you.

You must be the luckiest man in the world, Mr. Schiff, because you are next.

Mr. SCHIFF. Mr. Chairman, if I could have just a minute, if you could go to one of my colleagues.

INTERNET RADIO

Mr. SERRANO. Right. Well, I wanted to ask the Chairman if I am violating any kind of rules. You know, I have one of those Internet radio stations, and if you call right now, I am not there. The music is just playing by itself, if you click on.

Mr. MARTIN. I can send the enforcement bureau out to check it out. [Laughter.]

No, but there aren't any requirements on the Internet radio. But, of course, all of these public interest obligations attach to the extent that their broadcasters have to use the public airways. So the idea of all of our public interest obligations is that the broadcasters are receiving a very valuable public resource, the airwaves, and they have actually received that for free. We just auctioned off some of the airwaves that were returned by the television broadcasters for about \$20 billion. And that gives you a sense of how valuable these airwaves are that the broadcasters were able to get originally for free.

So we don't have the same kind of public interest obligations attached to your radio station.

Mr. SERRANO. For the members of the press who are here who may now write that I own a radio station, what it is is you go online to some of these Web sites that play music and you pick a name for a station, you put in some personal info, then you pick songs from a library they have, and anybody who clicks in listens to the music. And I don't own a radio station.

Are you ready, Mr. Schiff?

Mr. SCHIFF. Yes.

Mr. SERRANO. Mr. Schiff.

Mr. SCHIFF. Thank you, Mr. Chairman.

Mr. SERRANO. Now that I am out of jail.

BLOCKING DISTRIBUTION OF ILLEGAL CONTENT

Mr. SCHIFF. I wanted to focus on an issue that is very important to a great many of my constituents who work in the entertainment industry. In particular, I wanted to ask about the ISP management and responsibility in terms of unlawful content.

FCC policy statement principles state that consumers need access to lawful content. In your statement, on the dialogue between Comcast and BitTorrent, you noted that the hearing at Stanford will explore more fully what constitutes reasonable network management practices, including the important ability for network managers to block the distribution of illegal content, including pirated movies and music, as well as child pornography.

And I understand one of my colleagues asked a question on the child pornography issue, but I would like to focus on the pirated movie/music issue in particular.

Do you believe that taking action to block the distribution of that kind of unlawful material is consistent with network management and the FCC's policy statement principles? And how do we encourage parties to work together to block that kind of illegal material?

Mr. MARTIN. Sure. I think that, as I talked about when we were talking about other forms of illegal content, that the network operators don't violate any of the Commission's principles to the extent that they are limiting access to illegal content. Illegal content isn't content that is protected in any way by either our network and charter principles. So any kind of attempts by a network operator who wants to say that they are limiting illegal content doesn't invoke any of our principles. As you read, our first principle only protects legal content. So I don't think that that is something that raises a particular issue in front of the Commission.

I don't think that that means they can stop an entire application or an entire user from using any kind of content or any kind of access, just because they have done something illegal. They have to focus their efforts on stopping the illegal content.

As I also mentioned, I think you talked about the content creators, the studios in California. I think AT&T announced earlier this year they have been trying to work with them to engage in filters they wanted to put in place to try to screen out legal versus illegal content that was copywrited. And I don't think there have been any complaints that the Commission felt—I don't know if they have even implemented that, but I don't think there are any complaints at the Commission. That doesn't violate any of our principles, if an ISP wants to end up engaging that.

Mr. SCHIFF. Do you have any thoughts about how the Commission can better encourage exactly that kind of conduct that will rigorously go after unlawful, pirated content while letting the legal content flourish?

Mr. MARTIN. I think that focusing on those kinds of filters, I think, is much more appropriate than trying to shut down entire applications, you know, particularly because filters can try to screen out illegally or not appropriately copyrighted content, both video and music, for example.

And I think that that would be an appropriate kind of a response, as opposed to just trying to shut down a particular application that they think might be being utilized for illegal content, or it might actually be utilized at times for illegal content and other times for legal content.

Mr. SCHIFF. And when they receive reports of illegal content, they receive notice, are there any limitations in terms of FCC policy about how quickly they can operate to either take down that material or make it inaccessible over their network?

Mr. MARTIN. Not in terms of any FCC limitations or making that illegal content inaccessible, no.

Mr. SCHIFF. Thank you, Mr. Chairman.

Mr. SERRANO. Thank you.

SATELLITE RADIO IN THE TERRITORIES

Chairman Martin, let me skip to my last question, so I make sure I get it in on the record.

I have said to many folks who come before this committee that if there is a trend that you will see from the work we have done in the last year and a half, it is the issue of consumerism and, personally, the issue of involving the territories in everything we do in this Congress and providing the same services to the territories.

So, with the looming possible merger of satellite radio companies Sirius and XM, I bring to you for the record and for the public what I have written to you about, the fact that the territories are not covered by satellite radio. The signal does not get there. We had been told that it was a matter of getting the signal there. And the answer is almost one that a teenager would give you: Duh, it is a satellite; it can reach anywhere if you direct it to go there.

And so, as we look forward to this possible merger, which I support—I think it would be good, and I am personally a user of satellite radio—is there something the FCC can do to encourage, if you will—I don't know if you are allowed to mandate—but encourage satellite radio, as they merge, to make sure that they provide services to all folks who live under the American flag?

Mr. MARTIN. When we are considering any particular transaction in front of the Commission, we are able to balance the potential benefits to the public versus those potential harms. And certainly the concerns that have been raised by people on the record and by people like yourself, that satellite radio is not being offered to everyone, particularly to residents in Puerto Rico, and their commitment, so to speak, if they were going to offer that kind of service, would be a benefit that we would consider when we were weighing the benefits and the harms.

Mr. SERRANO. How did that happen, for instance, that they set up shop without including everyone? It didn't come up? No one brought it up? No one thought of it?

Mr. MARTIN. And I could get you some of the technical reasons why. But as I understand it, I think one of the two satellite radio providers' satellite, their look angle down on the U.S. and the territories doesn't actually completely cover Puerto Rico. So they would have some technical challenges in providing service there.

There are some ways to go around that. There are limitations in all kinds of places in the United States, where they don't provide

coverage and they supplement that by having terrestrial repeaters. They put an antenna up just like a terrestrial broadcaster does, and it repeats the signal.

So I think that there are ways, if they wanted to, to be able to provide service even if there were limitations on their satellite being able to do it. But I think that is why they would say they didn't provide service originally.

Mr. SERRANO. And that is the key: if they wanted to. And I think it is part—and I am not attacking anyone—it is part of a pattern of behavior that usually you don't include the territories.

I mean, in last year's appropriations bill, in this committee's bill, we were able to do something that people may feel was not important, but, to me, it was very important. To the people who live in certain areas it was important. That was to include the District of Columbia and the territories in the quarters program. And people are going to say, "Oh, he is bringing up the quarters program." But think of it: The 50 States were going to get a quarter, and people who are American citizens who live in the territories were not involved. Now there will be folks from the District of Columbia who will get a quarter in January of next year. And, in my case, it will help because somewhere in 2009 some child is going to go to a mother and say, "Mom, why is Puerto Rico on a U.S. quarter?" and mom will either say, "ask your father," or "we are going to go to a library and find out." And, if nothing else, that will begin an educational process as to the fact that we have Americans who live outside the 50 States.

So part of what you are saying is they probably didn't pay attention to it. I am hoping—and this committee will certainly force the issue—I am hoping that when they sit down with you, should that merger come to be, even if it doesn't come to be, for them to get their license renewed, they should include all Americans, that you forcefully say to them, "Hey, don't upset the Chairman."

TELEPHONE SERVICE IN PUERTO RICO

Mr. MARTIN. We have included similar kinds of conditions. You know, when the Puerto Rican telephone company, their license was being transferred recently, about a year ago, we actually included very specific build-out provisions to make sure that they were increasing the build-out of both voice services and broadband services to the citizens of Puerto Rico, because Puerto Rico had lagged significantly behind in broadband services.

So putting those kind of conditions on a transaction is something we have taken into account in the past.

Mr. SERRANO. Incidentally, on that, I have a few constituents talking to me about something interesting that happened. Many folks who lived in New York, who lived in Florida, who lived in other places where a lot of Puerto Ricans lived, had purchased Verizon services for themselves and for their grandma or their mom in Puerto Rico, knowing they could do the Verizon-to-Verizon at no extra cost. Then Verizon sold it to somebody else, and they were all out of luck, when the reason they bought Verizon was for that reason.

SUPREME COURT REVIEW OF THE BROADCAST OF INDECENT MATERIAL

On first amendment issues, the Supreme Court recently announced that it will rule on the FCC's rules governing the broadcast of indecent material over the airways. As you know, I have been concerned that the FCC application of its ruling in this area has been uneven and difficult for broadcasters to follow. I believe that the uncertainty over these rules raises concerns over what broadcasters can and should do, including the degree to which broadcasters must exercise censorship in order to avoid costly fines. I hope that the Supreme Court ruling will at least bring clarity to the issue, but I fear that it won't and that the FCC's enforcement in this area will continue to be controversial.

Now, as you recall and your predecessors recall, I spent a lot of time on another committee in what some people in the media call the defense of Howard Stern. And what it was was my belief that, as bad as some of the stuff I hear on the radio could be at times, it is not a decision for someone to make that they can't say it. Rather, we should have an even policy across the board, which we don't. And at that time I used to say that, to some people, Stern's locker-room humor may be offensive. To me, having a guy on TV every night blame immigrants for everything that goes wrong in this country is offensive, but he has a right to say it, and I want neither one to be taken out.

So what do you anticipate will be the scope of the Supreme Court's review of this issue? Do you believe that a decision on this matter will be helpful in clarifying what is considered indecent broadcasting, or will broadcasters continue to face uncertainty?

Mr. MARTIN. Well, I certainly hope from both the Commission's standpoint and the industry's standpoint that the court's ultimate decision will help provide additional clarity and certainty for what the rules are. But I think it is hard to predict what the court will end up doing with the decision.

I can say that one of the reasons why we appealed the Second Circuit's decision and asked the Supreme Court to take the case was because the Commission has an obligation to enforce the law that Congress has passed that tells us that we are supposed to prohibit indecent material from being on the public airwaves, on broadcast TV and broadcast radio. And that is an obligation that we take seriously and we are required to enforce. And, in so doing, I think that the Second Circuit's decision, which said that we were not able to do that for the expletives but that we use the mask in those cases, put us in a position where we were required by the law to enforce it, but the Second Circuit was saying that we were not able to enforce it. And so I think we repealed the decision, again, seeking clarity for us and for the industry.

BROADCAST REGULATION AND SATELLITE RADIO

Mr. SERRANO. On that point, I don't know if you were the one I asked this question of, but I assume you were, and I want to see if the answer is still the same. The question was about satellite radio and the fact that, because people sign up for it, they are kind of buying the service and the content, and that the same rules that you would apply on terrestrial radio, you would not apply on sat-

ellite radio because I am buying it, therefore I am accepting what comes over the airwaves.

Is that still the way we see it?

Mr. MARTIN. That is. The subscription nature of the service, I think, lends itself to a different kind of first amendment analysis when you are talking about that—versus the free over-the-air broadcast services.

And I would only highlight that I think that some recent proposals that have been put forth by satellite radio that would allow consumers to actually have additional and greater control over what they are picking and choosing, the channels they are buying, actually even further make it different from a broadcast, because it even provides additional protection. Because not only are you able to provide the whole service, but you are able to pick—you are able to buy packages that allow you to pick and choose individual channels. So I think that will provide additional certainty for them.

Mr. SERRANO. Well, I agree with that analysis. And I think you did say the same thing last time, that there was a constitutional issue at that point. Thank you.

Mr. Regula.

A LA CARTE PRICING

Mr. REGULA. Just a couple of things.

Last year we talked about a la carte. I don't know whether you still have the same enthusiasm for that. I have detected among my constituents that are in the business that they are not as enthused about a la carte as you are.

Are you still enthusiastic about it, or is it just a moot issue?

Mr. MARTIN. No, listen, I think there are two different things I would say. Absolutely, I am still enthusiastic about it. I think that the problem that consumers face is that they have seen dramatically increased cable bills. In many areas of the country, cable rates have increased quite dramatically over the last 8 to 10 years. You have seen an almost doubling of those on average throughout the country. And at the same time, some cable operators are complaining that they have to include content that they think that their viewers don't even want.

And I think one of the answers to that is to empower viewers to be able to pick and choose more of the channels that they want and more of the content that they want. And I think that resolves some of the concerns they might have about the kinds of content that is on there, and it helps them control their own prices.

So I absolutely think it is still the right thing. Technology would allow for it today for anyone who is a digital cable subscriber. I think it would allow consumers to reduce their overall cable costs. It would respond to that 80, 85 percent of people in recent surveys who say they are paying too much for cable services today. And it would allow it to do so in a way that is empowering consumers, as opposed to government-direct regulation.

Mr. REGULA. What control is there on rates? At least my experience here in Virginia is that, just, boom, boom.

Mr. MARTIN. Absolutely. There is no control on rates. And that is—I think that one of the reasons that I am advocating that is it empowers consumers to be in control of their cable rates and be in

the control of what they are having to purchase and buy, as opposed to the Government trying to put restrictions on cable rates, which is more of a price-control mechanism, which I think would be a bad thing for us to implement, especially when technology is providing an alternative which is more consumer-friendly and which will allow individuals to decide how much they want to end up paying for individual content.

UNIVERSAL SERVICE FUND

Mr. REGULA. The other question I have is on the Universal Service Fund. This goes to schools. Do people apply for grants, like a school library?

Mr. MARTIN. They do. Today, the school and libraries program—

Mr. REGULA. They apply with the FCC to get a grant from the Universal Service Fund?

Mr. MARTIN. That is right. And then they say, this is the kind of things we are going to provide for it; we are going to buy telecommunications service from this service provider; we are going to buy a server to serve our school or library. So they are actually applying for grants and then detailing what they would use that money for.

Mr. REGULA. There have been abuses of this program, what do you attribute that to? Is that because there is an intermediary between the school and you that is somehow cashing in on the USF?

Mr. MARTIN. I think that it is whenever there are grant programs, there is the potential for people to be—with any Federal Government grant program, there is a potential for it. As Congresswoman Kilpatrick mentioned earlier, the program has done a lot of good. It has done a lot for schools and libraries across the country. But we need to increase our efforts to try to solve the potential for fraud.

One of the things you could do, as I said, is move it away more from a grant program to a formula distribution, like you do school lunch money, where you would say, this is your demographic for your students, it is this rural and has this many students who are below the poverty line, so we give you this much money to spend on technology grants.

Mr. REGULA. What do schools and libraries do, in your experience, with these funds? How does it enhance their service to the public?

Mr. MARTIN. I think that what they do is try to integrate technology into the classrooms. When this program began, there were very few classrooms and fewer schools that were hooked up to the Internet, and certainly now you have 99 percent of schools and widespread connections to the classrooms. And I think that there are many schools that have then tried to take advantage of that technology to help educate their students, taking advantage of different learning opportunities.

So I want to be clear, I think there are some great educational things that the schools have been able to do with that technology. The challenge is making sure we find ways to integrate that into their curriculum and that they can use it the most effectively and

to make sure that, obviously, there isn't anybody who is applying for that money and not using it for that purpose.

PUBLIC SERVICE PROGRAMS

Mr. REGULA. Is your experience that the cable industry puts on public service programs that schools can access for the benefit of their students?

Mr. MARTIN. I think that there have been some that have been put on by that. I think that there have been a couple different television programs that have been put forth in trying to utilize it for educational purposes. But a lot of this money is actually going more toward, in that sense, utilizing students' ability to connect things over the Internet. And while they can't get computers in the classroom, they can get the connections for that classroom to be able to utilize the Internet access.

Mr. REGULA. Thank you, Mr. Chairman.

Mr. SERRANO. Thank you.

Now we go to the happiest man in all of Maryland. Why? Because the Orioles are in first place.

Mr. RUPPERSBERGER. Are we talking baseball?

Mr. SERRANO. We always talk baseball on this committee.

Mr. RUPPERSBERGER. Well, as we're headed, the Yankees and the Red Sox.

SENIOR LIVING FACILITIES

First thing, just two basic questions. And this really was based on a constituent call about someone who had a home, and it was designated commercial when it wasn't, and they were told that they wouldn't be able to get the waiver for the box. And then we looked into it further and found that when you have senior living—and in my district I have at least probably two, maybe three, senior living areas where we have 3,000 seniors living in a facility. What is the FCC position? What are we going to do about that?

You have someone buying a condo a lot of seniors that are going to be very concerned if we don't deal with that issue.

How are we dealing with it? What is the policy going to be?

Mr. MARTIN. I think what you are referring to is NTIA, under Department of Commerce actually, is running the grant program for those boxes, and they had disallowed certain kinds of community living that I think you are raising was the problem.

NTIA, I was testifying with them before the Senate. They actually announced that they were reconsidering that rule, to try to change it so that even those people with PO boxes who are living in those kind of community organizations could still qualify to get a converter box.

But I can't give you any more of the details. I can make sure that the NTIA folks get in touch with you to explain—

Mr. RUPPERSBERGER. Will you make sure that happens and follow through with that? Because it is extremely important. And I think there is a major issue that we need to deal with, or we are going to have a lot of problems throughout the country on that issue.

Mr. MARTIN. Sure.

Mr. RUPPERSBERGER. Okay.

A LA CARTE PRICING AND DIVERSITY PROGRAMMING

Just the a la carte—I know your position on a la carte. There is a lot of diversity in programming, a lot of programs probably wouldn't exist if they must compete with the major ESPNs or the network stations, the very popular stations, and especially for those of us who represent some areas where you have a population that does not have a lot of money. And it seems that the a la carte will really—I know the Chairman referred to “what is a mother going to say” or “what is a father going to say” or whatever. I am saying, if we just go a la carte, we will have a lot of people who won't have a diversity of stations, whether they are cooking stations, education channels, whatever.

And that is the other side of your a la carte. And I am concerned that the education point of view, and even entertainment too, will be lost.

Mr. MARTIN. I would say, I am actually concerned about the people who can't afford it, as well. That is the reason why I think that an a la carte mechanism would be helpful. Because, right now, what you are seeing is that those same people are faced with a choice of getting nothing or having to pay cable rates that have gone up 100 percent in the last 8 years. So we are seeing dramatic increases in people's expanded cable rates throughout the country, and it is for, oftentimes, programming that some of the cable operators—the Small Cable Association was in town yesterday, and they were highlighting this issue, for—sometimes it is for content that they don't even want.

And I think that the concern I have is that those same consumers should be able to have more control over their bills, and that that is actually going to allow them to decrease their overall bills. That is the concern—

Mr. RUPPERSBERGER. The little stations will go away, or unless someone can afford to have them all come in. And that is part of why I think cable did very well in the beginning, because there was such diversity, so many choices that were there, from educational and entertainment media.

Mr. MARTIN. Educational programs would all end up still being there. What you are talking about is, are there programs that they are—

Mr. RUPPERSBERGER. It is not just Hispanic. You have cooking, and you have a lot of things.

Mr. MARTIN. The Hispanic issue, for example, is a good example—

Mr. RUPPERSBERGER. Or African American.

Mr. MARTIN. And I think it actually cuts the way. You actually have Hispanic homes that are disproportionately relying on over-the-air broadcast because they don't feel like they get a good value for paying \$80 for 120 channels, most of which are English-language. Instead, if we allowed them to pick and choose the Spanish-language programming, I think you would see an increase in the number of Spanish-speaking homes that would be willing to purchase cable. Because, right now, they are having to buy ESPN in English as a basic part of the package before they are allowed to

buy ESPN in Spanish. And I don't understand why they should have to do that.

Mr. RUPPERSBERGER. And that is a good argument, too. There are arguments on both sides. I hope you understand there is another issue there.

A LA CARTE PRICING AND CABLE RATES

Mr. MARTIN. Certainly, I think there are. But I think that the concern, the overwhelming concern that we have to put a focus on is the dramatic increase we have seen in cable rates over the last few years. And I think we have to find a way to resolve that, and I think that empowering consumers is the appropriate way.

Mr. RUPPERSBERGER. Because it will change, I think, the scope of where we are.

Thank you, Mr. Chairman.

Mr. SERRANO. Thank you.

That is an issue where you do have arguments on both sides. There are some folks, for instance, some members of the Congressional Hispanic Caucus who will say a la carte is no good, as you know, because then some of the programming that comes not from networks but smaller broadcasters in Spanish won't be included.

On the other hand, you are right. I mean, I—and you should never use yourself as an example, but I am a consumer. I pay a lot of money to Comcast here in Virginia. Half of my channels come in that mosaic, what is that called, digitalized?

Mr. MARTIN. The digital package, whatever they—

Mr. SERRANO. No, no, no, that they don't come in right. They come in all broken up. And try to get some service, it is ridiculous. Why do I think I will get 10 calls from Comcast this afternoon? And maybe that is an improper use of the chair, but I am sure I speak for a lot of other folks who are going through the same thing.

But you are right. Some people think I am not telling the truth when I say that I find time to do other things that are outside of politics. And I know the arguments against a la carte. But I also would like to be able to choose one less channel of that kind and one more channel of this kind and to include the Mystery Channel, whatever. Those things don't happen all the time.

So I think you might be going in the right direction. You just have to look out to make sure that, in the process, you don't leave out the ability for some smaller broadcasters to also have their wares available on the market.

Mr. MARTIN. One thing that—and I have suggested this in the past—one thing we could end up doing is implementing a la carte for a certain price point. In other words, anybody who wants to charge consumers more than 50 cents a month. If you have 100 channels in a package and they all want to charge 50 cents, that adds up pretty quick. But what if you just say—I think you could implement it on that kind of a mechanism, where you say anything over a certain price, then if you want to charge consumers that, that is fine, but consumers have to be able to opt out of that channel as well.

The other thing that I think that addresses some of the concerns that are raised by smaller broadcasters or smaller channels that are getting on is I don't think it has to be that people pick and

choose the channels up front. It could be that people can opt out of channels, and you should tell people how much they get back. Well, if someone is only charging 2 cents for a channel per month and you decide you are going to opt out of that channel, then many consumers won't bother to because it is not a significant amount. On the other hand, if you are starting to charge someone 75 cents, \$1, several dollars in some cases by some channels, I think consumers have to be able to say that this is a purchase they won't end up making.

Mr. SERRANO. Right.

LOW-INCOME ACCESS TO TELECOMMUNICATIONS

Low-income access to telecommunications, this is the question we deal with all the time. I mean, every day we see how this country is getting more and more and more involved in the modern technology. Yet, at the same time, there is still a segment, a certain part of the community which is not involved at all.

What is the FCC doing to foster access to and affordability of telecommunications and Internet services for low-income communities?

And I know there are various programs that reach out to schools and libraries and so on. But, you know, if I could wave a wand and do something in this country, it would be to have senior citizens who are alone, who are living alone, who are lonely, able to use the Internet and realize that that will probably open up a whole new life for them. We don't pay enough attention to that, and we are all heading toward that age. We may not all be heading there with 15 people around us in a big family; it might be all by ourselves. We have to plan for those folks, too, as we do in other areas. But we seem not to have planned for them in this particular area.

Mr. MARTIN. There are certain programs in the Universal Service Fund. Most of the time we talk about the program for schools and libraries in the rural areas that receive the bulk of the money, but we do have a certain fund set aside or a certain portion of the funding set aside for what we call our Lifeline and Linkup program which directly provides support for people to be connected who are low-income. So we have a separate program that supports that. But that is only for our voice side. It doesn't address the Internet issues you have.

I would say that the Commission did a year ago, in the context of some of the large telecommunications mergers that were in front of us, we did impose as a condition of public interest benefit that they provide a lower cost to DSL broadband connection offering, might be at a more limited speed, but that they did—I think they were supposed to provide it initially at a \$10-a-month cost.

So we have imposed certain kinds of conditions to try to provide a low-cost access entry point to broadband services try to address some of the concerns that people are raising.

Mr. SERRANO. Thank you.

One last question, and then I will turn it over to the rest of the committee. I will submit all the rest of my questions for the record, Mr. Regula.

When it reaches that point where negotiations get—they are going on now, but for this merger between Sirius and XM, one of

the issues that I am concerned about is on-air personalities, where these folks are coming from, how diverse is their employee pool, and how diverse are their employees right now.

DIVERSE COMMUNITY PROGRAMMING

Again, these are issues that, at times, no one can force anyone to be aware of or to deal with. But more and more, I am hearing folks on air that I know are not recruited within the 50 States or the territories, especially in the case of Spanish programming. And there are plenty of folks who can handle some of those jobs around here. Just as well as the programming at times could be a little more directed to certain communities, although they have done a pretty good job of that; there is more that can be done.

Are these the kind of things that also can be part of the conversations for the approval?

Mr. MARTIN. Those would certainly be the kind of concerns that people are raising in conversations that we would have about making sure that, if they were going to be allowed to end up moving forward, that they would be making sure they were serving that diverse community and providing new ways of serving that diverse community.

And, certainly, their willingness to put the Serrano radio station on nationally would go a long way toward achieving that goal. [Laughter.]

Mr. SERRANO. Okay, fine. That is great. That is wonderful.

I am just worried about one has the baseball package and the other has the football package. They shouldn't drop one and keep the other. They should do both at two different times of the year. But I do have a legitimate question.

Mr. MARTIN. I know. I think that is a good start, Mr. Chairman. But certainly what they are going to be doing to serve the diversity of listeners out there is an important part of the equation.

SATELLITE RADIO MERGER AFFECT ON EQUIPMENT

Mr. SERRANO. I do have one last concern on this, and this is the one that I will be bugging you about a long time.

Take my situation. I have a portable in my Bronx car, I have an in-dash here in my Washington car, and I have another portable in the house. The merger should not mean that I have to go buy new equipment. The merger should mean that there is a merger and everything comes in through one signal.

Mr. MARTIN. I agree.

Mr. SERRANO. And it should not be—and I personally will be very upset if this means that folks now have to go buy new equipment.

Mr. MARTIN. Obviously, we would be very concerned if—and I think that would be something we would obviously look at and make sure and condition it if there was going to be some way that it was going to adversely impact the consumers who have already purchased and who already own those radios.

Mr. SERRANO. Thank you.

Ms. Wasserman Schultz.

Ms. WASSERMAN SCHULTZ. Thank you, Mr. Chairman. I will note for the record that the Florida Marlins are also in first place. Moving on.

Mr. SERRANO. Are they staying in Florida, or are they moving to Puerto Rico?

Ms. WASSERMAN SCHULTZ. They are staying in Florida. No, no, not Puerto Rico. We have such a significant population in Florida that that won't be necessary. We can keep them here and keep the fans.

BATTERY OPERATED CONVERTER BOXES

Mr. Chairman, I have a DTV-related question, a couple, that are unique to my State. Florida suffers from devastating natural disasters, and we often, from between June and November, have a situation where the lifeline for my constituents is their battery-operated analog television. And my understanding is that there will not be an analog-to-digital converter box produced to accommodate battery-operated analog televisions. And that is a really serious concern.

Is that accurate? And, I mean, how are we going to deal with that? Because the TV stations that provide the vital information that Floridians need and that people in the region need for natural disaster information, they still operate, unless their tower crashes, which normally doesn't happen. So how are we going to deal with that issue?

Mr. MARTIN. I think the issue is a significant problem, because the portable televisions, some of them will be able to be connected to the digital-to-analog converter, but the digital-to-analog converter still has to be plugged in to get power. So if it is a battery-operated TV, it won't do any good.

Ms. WASSERMAN SCHULTZ. But they could make a battery-operated converter.

Mr. MARTIN. They would have to end up making a battery-operated converter box. At this point, I don't think that there—I know that we have been looking out for it. As I understand it, there are portable digital televisions that will have the capability of receiving the new digital signals that are available, but I don't think that there is yet a converter that is separately battery-operated. And I know that we have been trying to look out for the issue, because I know that this is something that has been raised.

Ms. WASSERMAN SCHULTZ. You have lower-income people and senior citizens in particular. I mean, we have one of the largest senior citizen populations in the country, well, the largest in the country in our State, and I have one of the largest in my district. Requiring them to go out and buy a new battery-operated digital TV—

Mr. MARTIN. It is several hundred dollars. It is going to be very, very pricey.

Ms. WASSERMAN SCHULTZ. Is there any way that the Commission can address this so that there is a converter developed so that that doesn't happen? It is a really serious problem.

Mr. MARTIN. Sure. I know that we can certainly try to work with the manufacturers to see if we can find someone who would be willing to end up producing one, a converter box. We can't require them. The converter box program is actually—the design of the converter box is actually what was done by the Department of

Commerce. It is under their jurisdiction of what is required and what is not to be required in the converter box.

So we can't require that. What we can do is try to encourage them. And I will be happy to try to work with them and let you know what their responses are.

Ms. WASSERMAN SCHULTZ. If you could, because you know what is going to happen. I mean, next June when those hurricanes, and God forbid we get hit by some more, but we will inevitably, and we will have thousands of our constituents who are going to be literally in the dark without a lifeline if we don't address that, that really large gap.

ADDRESSING TRANSITION PROBLEMS

And the other issue, one of my colleagues mentioned the NTIA-approved converter box. If someone brings it home, connects it to their analog set and connects the box to whatever antenna they are currently using today, and they aren't able to get all the digital signals from their local broadcast stations, there are going to be a bunch of different possible causes for that.

How are they going to figure that out? How do they know what the problem is, how they can solve it? Is there going to be a toll-free phone number that people can call to get help with that? Will you have enough staff on hand to respond to questions?

Mr. MARTIN. There is a toll-free number that the Commission has, and then we have information available.

Ms. WASSERMAN SCHULTZ. Will it have a live person?

Mr. MARTIN. There is right now but not 24 hours a day, 7 days a week. One of the things we are asking for with the additional funding is to be able to staff that, starting next fall through the transition, with someone 24 hours, 7 days a week for it.

But you are right, I think that there will be a challenge. The Commission estimates that there will be a small number of people who will need to go out and get a new antenna as well, which is what I think you are referring to. There is a Web site that the consumer electronics industry has put forth that allows you to type in your address and identifies whether or not they estimate you would need a new antenna and what kind of new antenna would ensure you would be able to get all the local broadcast signals.

Ms. WASSERMAN SCHULTZ. See, these are the kinds of technical transitional issues that, I mean, we could sit here all day and probably come up with a very long list. I am hopeful that you are going to develop a lot of aggressive focus and staff resources.

Particularly, I have to tell you I am concerned about the distribution of your FTEs and resources and staff time to the a la carte issue versus how much time and resources and effort you are focusing on the transition and dealing with issues like this.

Mr. MARTIN. I think one thing should be clarified, and I testified to this last year as well. I actually don't think the Commission has any authority to require a la carte on the retail side. I think it is a good idea. I think consumers want it. I think consumers are concerned about their cable bills. But it is not anything that we have a proposal in front of the commissioners that is proposed, and I have actually testified we don't have the authority to require.

So I don't think you need to be worried about that, that particular aspect of it. But I certainly think we need to be making sure that we have all the resources dedicated to try. This is one of our top priorities over the next year.

DTV TRANSITION AND PORTABLE TELEVISIONS

Ms. WASSERMAN SCHULTZ. So, if you could work with myself and my Florida colleagues and the colleagues in the region of the hurricane-prone zones to try to address the battery-operated converter issue, I would really appreciate it.

Mr. MARTIN. Sure.

Ms. WASSERMAN SCHULTZ. Thank you, Mr. Chairman.

Mr. SERRANO. Now, Ms. Wasserman Schultz, I was going to make a sarcastic comment, and then I realized that my sarcastic comment actually leads to a real question, which was, were you talking about low-income people or people who have a TV set on their yacht, on their boat. Right?

But then I would ask that question, too. What happens to people who have TV sets somewhere like on a boat or motor homes? How are they affected by this?

Mr. MARTIN. All of the televisions are affected in the same way, because the broadcasters are actually shutting off their analog signals. So all of them are affected. They all either need to get a converter box or buy a new television.

Mr. SERRANO. Let the folks in the country clubs there know that I spoke on their behalf. [Laughter.]

Ms. WASSERMAN SCHULTZ. As a representative of the yachting capital of the world, we thank you very much.

Mr. SERRANO. The guy from the South Bronx. Only in America. Mr. Hinchey.

MEDIA OWNERSHIP RULEMAKING

Mr. HINCHEY. Thank you, Mr. Chairman.

Just briefly to return to the ownership rulemaking that started in November. I think it is obviously very important for the Federal Communications Commission to set an example with regard to openness and communication, fairness, transparency. But when that process began, it began with a simple press release that was put on their Web site and, if I remember correctly, an op-ed piece in the New York Times. That was it. There wasn't any other way of communicating that these changes were under consideration.

Is that normal? Is that the way things normally work at the FCC?

Mr. MARTIN. Well, that is not how we began the process to alert people that these changes were under consideration. We actually began the process a year and a half before that vote, when we issued the notice of proposed rulemaking saying that the courts had sent that issue back to the Commission and that we needed to revise our rules.

And we received thousands and thousands of comments. We had six public hearings around the country where we received hundreds of people coming to comment in front of us. And we had studies that were conducted; we had peer reviews of those studies that

were conducted. All of that was put out for public comment, as well.

As a part of that process, people wanted to make sure that the Commission took the extra step. Whenever we have been debating an issue or debating a rulemaking, eventually the Commission has to decide on the final order, and then that order is put forth by the Chairman. The Chairman proposes an order, and all the other commissioners vote on it.

What there was was a request made of me to make sure that I was public about what I was proposing to the other commissioners to do, as a result of the rulemaking process we were engaging in that satisfied all the APA requirements. And to make sure that we were more open and transparent on issues than anything else, I put out a press release and said, "Here is what I am proposing the Commission adopt as the final rules."

And that was something that is not the normal process that is normally engaged in, and that was because we don't usually put out a press release that says this is the item I have circulated to the other commissioners to vote. That is actually something that is not actually put out for the public until after they voted on it.

So I was actually putting out my proposal to everyone to vote, and I did that in an effort to do exactly as you said, to try to be more transparent than normal. And that was why I put that out, so when I circulated it to the other commissioners, I also put it out in the press. And to make sure it was as open as possible, I did; I wrote an op-ed in the New York Times and said, this is what I think the Commission should do going forward.

Mr. HINCHEY. So you think it was pretty much out in the open?

Mr. MARTIN. Yes. I think so. Yes.

Mr. HINCHEY. Was there any impact on the outcome that came about as a result of those hearings and the statements that were made by people at those hearings?

Mr. MARTIN. Oh, absolutely. When we started this process, we were considering whether we should revise all of the media ownership rules. The broadcast industry wanted us to allow people to be able to purchase additional radio stations in every market; they wanted to be able to buy two or three TV stations in each market.

There was an overwhelming concern that was expressed at a lot of the hearings that the concentration that has occurred in the media landscape, particularly since 1996 when Congress passed an act that changed those media ownership rules. And I think that the Commission, as a result of that, did respond.

And that is one of the reasons why we didn't change any of those other rules. Those rules are all still the ones that were in place just as they were in the late 1990s. We didn't change any of them. The one rule that we did end up changing was, as I said, the newspaper broadcast rule.

But I think that the hearings certainly had an impact.

Mr. HINCHEY. Was there a vote by the Commission on the outcome of that rule?

Mr. MARTIN. Yes, sir, there was.

Mr. HINCHEY. There was a vote in the Commission?

Mr. MARTIN. Yes.

Mr. HINCHEY. When was that vote?

Mr. MARTIN. In December.

Mr. HINCHEY. The full Commission voted in December?

Mr. MARTIN. Yes.

PUBLIC COMMENT PERIOD ON MEDIA OWNERSHIP RULES

Mr. HINCHEY. Just one last question. The Senate Commerce Committee just reported out a bill that mandates that the public should have 90 days to evaluate and comment on any media ownership rules. How do you feel about that?

Mr. MARTIN. Well, I think that obviously the Commission, first of all, is going to follow whatever instructions we are given by Congress. All of our media ownership rulemaking is in the context of a law that requires us, every 4 years, to review our media ownership rules. So obviously we are going to follow it.

But I don't have any problems with that. We have put out our rulemaking for comment for more than 90 days. We started this process, as I said, the summer before that. And what I think the challenge is, frequently, it can end up that we can never get to a final order, because every time we approach that decision we have to restart the whole comment process. So, in general, we put out a notice of proposed rulemaking, asking what we should do, saying this is the issue that is in front of us, these are our options, ask for people to comment on it. And then we put an order out where we say, this is what we determined the right answer is.

But, obviously, we will follow whatever process and direction Congress provides.

Mr. HINCHEY. Okay. Thanks very much.

Mr. SERRANO. Thank you, Mr. Hinchey.

Chairman Martin, we have kept you now here as long as General Petraeus has been kept, except that I think you have issues we are actually going to win. But that is just my personal comment.

We thank you for coming before us. We thank you for your testimony. The committee and I personally will stay in close touch with you, because we have issues coming up that are extremely, extremely important, and we want the proper outcomes within what is possible.

So, once again, we thank you for your service, and we thank you for coming here before us today.

Mr. MARTIN. Thank you.

Mr. SERRANO. The hearing is adjourned.

Questions for the Record
Submitted by Chairman José E. Serrano

1. Financial and accounting system. The budget request includes \$1.375 million to continue the migration to the Commission's new financial system. This new system is important to the Commission's efforts to ensure effective internal financial controls and budgeting processes.

- **What is the status of the implementation of the new financial system?**

Response:

The Commission released its Request for Proposal (RFP) on September 27, 2007, and prospective bidders submitted their proposals by December 3, 2007. The Commission has assigned a team of staff members to review the proposals, and this team is currently evaluating the proposals.

- **Is this system being implemented on time and on budget, and if it is not, why?**

Response:

The Commission expects to implement the new financial system on time and on budget.

- **What are the risks that the system will not be completed by the October 2010 deadline?**

Response:

The Commission's Office of Managing Director considers the overall risk of not meeting the October 2010 deadline to be low. At this time, the Commission has met all major milestones for the project. Consistent with information technology best practices, the Commission developed a plan to manage the risks associated with deploying the new financial system. In addition, the Commission's project team has worked closely with the Commission's Office of Inspector General (OIG) to identify and address potential risks to completing the deployment by the October 2010 deadline.

2. Handling of Complaints. A recent GAO report was critical of the way the FCC tracked and took enforcement action on public complaints. GAO noted that 83 percent of the investigations opened as a result of such complaints were closed without an enforcement action. GAO also noted that the “FCC has not set measurable enforcement goals, developed a well-defined enforcement strategy, or established performance measures that are linked to the enforcement goals.” The FCC responded that only 3 percent of the investigations were closed without an enforcement action.

- **Please explain the discrepancy between the findings in the GAO report and the FCC’s position. Please describe steps the FCC is taking to improve data collection and management relating to complaints and enforcement actions.**

Response:

GAO states that the Commission’s existing enforcement databases do not contain information about the disposition of a complaint. This is incorrect. This information resides in the problem resolution or similar notation sections of the Commission’s database systems. This section of the database was readily accessible to GAO during the course of their investigation. Thus, the GAO made errors in presenting certain data. During the preparation of this report, the Commission informed the GAO of our concerns that the draft report contained factual flaws. For example, in one part of its report, the GAO states that 83% of the investigations were listed as closed with no action. Commission review of the databases, however, indicate only 3% were closed with no action. In fact, 71% were closed with compliance found, 15% closed after taking action and 11% closed due to insufficient information.

- **What performance measures or other criteria does the FCC use to determine whether enforcement actions taken in response to public complaints are effective?**

Response:

The Commission is a proponent of strong enforcement action to protect consumers and to ensure the Communications Act of 1934 (the Act) is carried out in the manner intended by Congress. During my tenure, the Commission has undertaken more than 3,400 enforcement actions. These enforcement actions have resulted in assessing more than \$65.7 million in fines, forfeitures, and consent decree payments – including more than \$43 million in 2007 alone, which the GAO acknowledges is the highest annual amount since the Enforcement Bureau was created in 1999. In addition, the Commission has devoted significant resources to reviewing and taking action on a backlog of more than 113,000 consumer complaints.

Because the Commission’s enforcement program is an important tool for ensuring the statutory goals of the Act are met, I welcome recommendations on making

improvements. I am pleased to report that the Commission had already implemented measures that addressed the GAO recommendations. The GAO report focuses on the period from 2003 through 2006. As staff indicated to the GAO during its examination, by the time of the audit, we were already aware of these issues and already had plans in place to improve both the Commission's enforcement data collection and processes.

First, the Commission had recognized that one of its principle challenges was its limited information systems and database management resources. By July 2007, the Commission had already secured Congressional approval to make significant modifications to the databases and systems used to support the Commission's enforcement activities. The budget and planning processes for these systems enhancements had been underway for some time, and we expect final delivery this year.

Second, during my tenure, the Commission has implemented standardized enforcement performance goals to better manage the enforcement process and to automate portions of this process. The Commission implemented an internal performance measurements program (including the establishment of written internal controls) to collect data used to assess the performance and accountability of the enforcement program.

Unfortunately, the GAO Report contains several errors that detract from its utility. We raised these problems with GAO during the course of its examination, but the flaws remain in the report. First, the GAO relied on information that is significantly out-of-date in making its conclusions and recommendations. In some cases, the GAO relied on information more than four years old rather than examine more current information. By relying on information that is out-of-date, the GAO's report provides a misleading description of the Commission's current enforcement processes.

In addition to using outdated information, the GAO made errors in presenting certain data. During the preparation of this report, the Commission informed the GAO of our concerns that the draft report contained factual flaws. For example, in one part of its report, the GAO states that 83% of the investigations were listed as closed with no action. Commission review of the databases, however, indicate only 3% were closed with no action. In fact, 71% were closed with compliance found, 15% closed after taking action and 11% closed due to insufficient information.

In July 2007, the Committee approved a reprogramming request for \$2.1 million to improve the Commission's ability to respond to consumer's do-not-call and junk fax complaints. Of this amount, \$1.4 million was for long-term improvements in the tracking and management of consumer complaints.

- **What is the status of the efforts funded by this reprogramming?**

Response:

The Commission's plan to enhance the systems used to respond to consumers' Do-Not-Call and junk fax complaints is progressing according to schedule. As of February 29, 2008, the Commission spent approximately \$700,000 of the requested funding to improve the consumer interfaces for our systems. As a result, it is now easier for consumers to submit complaints via the Internet, telephone, fax, email, or postal mail. In addition, the enhancements deployed to date have automated the process for transferring consumer complaints to the appropriate Commission personnel. Finally, the new enhancements provide the means for Commission staff to handle and track consumer complaints electronically and in a more efficient, effective manner.

The Commission's information technology staff is continuing to work on deploying the long-term improvements highlighted in our July 2007 reprogramming request. We expect to complete these improvements later this calendar year.

3. D Block. The recent spectrum auction failed to attract any bids that met the reserve price for the D Block, which would be reserved for public safety use. The FCC must now decide how to proceed on the D Block.

- **What are the options available to the Commission for the disposition of the D Block?**

Response:

The Commission will look at all options in considering the appropriate path. I remain committed to trying to solve public safety's interoperability challenges. We may need to revisit the obligations of the D block winner, and ensure that there is sufficient certainty in the process. For example, the Commission needs to consider whether the demands that were being placed on the D block winner were too great. Were the network expectations reasonable? Was the build-out requirement imposed on the D block winner too ambitious?

- **What would be the expense of a new round of bidding on the D Block?**

Response:

Since the Commission's current cost accounting system does not track costs by auction, and because most auctions-related costs are fixed, the Commission cannot reliably predict the incremental cost of a re-auction of the D Block.

- **How is the FCC considering the views of public safety agencies in determining how to proceed?**

Response:

The FCC will fully consider the views of public safety agencies, as well as all other interested parties, in determining how to proceed with the D block.

- **What is the time frame for deciding how to proceed?**

Response:

I have circulated a Second Further Notice of Proposed Rulemaking seeking comment on how to proceed with the re-auction of the D Block. The Commission will consider this Second Further Notice of Proposed Rulemaking at the open agenda meeting scheduled for May 14, 2008.

4. Net neutrality. The FCC is in the process of reviewing network management issues relating to the blocking of certain content by broadband Internet providers.

- **What do you believe to be reasonable network management practices by broadband providers?**

Response:

There are several factors that the Commission should use when analyzing complaints and concerns about network management practices by broadband operators.

First, the Commission should consider whether the network management practices are intended to distinguish between legal and illegal activity. The Commission's network principles only recognize and protect user's access to legal content. The sharing of illegal content, such as child pornography or content that does not have the appropriate copyright, is not protected by our principles. Similarly, applications that are intended to harm the network are not protected.

Second, the Commission should consider whether the network service provider adequately disclosed its network management practices. A hallmark of whether

something is reasonable is whether an operator is willing to disclose fully and exactly what they are doing.

Adequate disclosure of the particular traffic management tools and techniques – not only to consumers but also to the designers of various applications and entrepreneurs – is critical.

Finally, the Commission should consider whether the network management technique arbitrarily blocks or degrades a particular application. Is the network management practice selectively identifying particular applications or content for differential treatment? If so, we should evaluate the practices with heightened scrutiny, with the network operator bearing the burden of demonstrating that the particular practice furthered an important interest, and that it was narrowly tailored to serve that interest.

Such an analysis would recognize the importance of legitimate network management techniques while giving the Commission the framework to analyze carriers' actions on a case-by-case basis.

▪ **What steps should be taken to ensure that providers do not conduct discriminatory and arbitrary practices?**

Response:

In 2005, the Commission adopted an Internet Policy Statement containing four principles. The Commission's goal was to clarify how it would evaluate broadband Internet practices on a going forward basis.

Specifically, the Commission established the following principles:

To encourage broadband deployment and preserve and promote the open and interconnected nature of the public Internet,

- Consumers are entitled to access the lawful Internet content of their choice;
- Consumers are entitled to run applications and use services of their choice, subject to the needs of law enforcement;
- Consumers are entitled to connect their choice of legal devices that do not harm the network;
- Consumers are entitled to competition among network providers, application and service providers, and content providers.

As the expert communications agency, it was appropriate for the Commission to adopt, and it is the Commission's role to enforce, this Internet Policy Statement.

In fact, the Supreme Court in its *Brand X* decision specifically recognized the Commission's ancillary authority to impose regulations as necessary to protect broadband internet access.

I do not believe any additional regulations are needed at this time. But I also believe that the Commission has a responsibility to enforce the principles that it has already adopted. Indeed, on several occasions, the entire Commission has reiterated that it has the authority and will enforce these current principles.

For example, in 2006 when I appeared before the Senate Committee on Commerce, Science and Transportation, then Chairman Stevens asked me whether the Commission had the existing authority to take action if a problem developed. And I responded that the Commission had authority under Title I to enforce consumers' access to the internet.

Moreover, almost exactly one year ago, the Commission committed to enforcing our existing principles and the policy statement. Specifically, in April 2007, the Commission expressly stated:

The Commission, under Title I of the Communications Act, has the ability to adopt and enforce the net neutrality principles it announced in the Internet Policy Statement. The Supreme Court reaffirmed that the Commission "has jurisdiction to impose additional regulatory obligations under its Title I ancillary jurisdiction to regulate interstate and foreign communications." Indeed, the Supreme Court specifically recognized the Commission's ancillary jurisdiction to impose regulatory obligations on broadband Internet access providers.¹

Finally, the Commission has already taken enforcement action in response to other complaints. In the Madison River complaint, the Commission ordered a telephone company to stop blocking VoIP calls.

I believe that the Commission must remain vigilant in protecting consumers' access to content on the internet. Thus, it is critically important that the Commission take seriously and respond to complaints that are filed about arbitrary limits on broadband access and potential violations of our principles.

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¹ *Broadband Industry Practices*, WC Docket No. 07-52, Notice of Inquiry, 22 FCC Rcd 7894, 7896, para. 4 (2007) (internal footnotes omitted).

that does not have the appropriate copyright, is not protected by our principles. Similarly, applications that are intended to harm the network are not protected.

Second, the Commission should consider whether the network service provider adequately disclosed its network management practices. A hallmark of whether something is reasonable is whether an operator is willing to disclose fully and exactly what they are doing.

Adequate disclosure of the particular traffic management tools and techniques – not only to consumers but also to the designers of various applications and entrepreneurs – is critical.

Finally, the Commission should consider whether the network management technique arbitrarily blocks or degrades a particular application. Is the network management practice selectively identifying particular applications or content for differential treatment? If so, we should evaluate the practices with heightened scrutiny, with the network operator bearing the burden of demonstrating that the particular practice furthered an important interest, and that it was narrowly tailored to serve that interest.

Such an analysis would recognize the importance of legitimate network management techniques while giving the Commission the framework to analyze carriers' actions on a case-by-case basis.

5. Media ownership waivers. When the Commission adopted its new newspaper-broadcast ownership rule, in the same order it also granted five permanent newspaper-broadcast waivers for combinations that would not have met the criteria in the new rule to be presumptively in the public interest. The order does not provide the detailed public interest analysis of those five combinations that appears to be required by the new rule.

- **Why did the Commission choose to grant these waivers in a fashion inconsistent with the new rule?**

Response:

Each of the five waivers granted by the Commission in the Report and Order are discussed below. In each of these instances, the Commission concluded that the public interest warranted a waiver of the newspaper/broadcast ownership rule in light of the synergies that have already been achieved from the newspaper/broadcast station combination, the new services provided to local communities by the combination, the harms associated with required divestitures, the prolonged period of uncertainty surrounding the status of the newspaper/broadcast cross-ownership ban, and the length of time that the waiver request has been pending.

- In the case of Gannett Co.'s combination in the Phoenix, Arizona DMA, the Commission found that Gannett had owned KPNX-TV and *The Arizona Republic* since 2000. In the 2006 Quadrennial Review Order, the Commission stated that "Gannett has submitted evidence demonstrating how, during the past seven years, it has integrated the operations of the two media outlets to expand the volume of local news and information communicated to Phoenix residents and to improve the quality of its offerings." For example, Gannett submitted evidence that the "combined efficiencies have enabled KPNX-TV to expand its local programming . . . includ[ing] a weekday 4:30 p.m. newscast, a weekly travel and tourism program titled 'Arizona Highways,' and a daily news broadcast in Spanish on '12 News En Español' on KPNX-TV's Separate Audio Program channel."
- The Commission found in the Myrtle Beach-Florence, South Carolina DMA, Media General had owned television station WBTW(TV) and the *Morning News* since 2000, and its waiver request had been pending for more than three years. Media General submitted evidence that "WBTW(TV) has found access to the archives of the *Morning News* to be crucial to ongoing coverage of news in the area and to the development of special and investigative reports, enabling WBTW(TV) to provide greater depth and expand its coverage of major events and issues in the DMA." In addition, Media General provided examples to the Commission "of the news staffs of WBTW(TV) and the *Morning News* collaborating on recurring features and series 'that, because of convergence, are more informative and achieve wider distribution throughout the DMA.'"
- In the Columbus, Georgia DMA, the Commission found that Media General had owned television station WRBL(TV) and the *Opelika-Auburn News* since 2000, and its waiver request had been pending for three years. The Commission considered the following information submitted by Media General: "[a] WRBL(TV) reporter is permanently assigned to the station's Opelika bureau, which is housed in the newspaper's building. From this facility, WRBL(TV), which does not operate a satellite truck, has the capability of transmitting live video for broadcast on WRBL(TV), which has enabled the station to broadcast improved coverage of breaking news and other events occurring in the western portion of its DMA."
- In the case of the Panama City, Florida combination, the Commission found that Media General had owned television station WMBB(TV) and the *Jackson County Floridan* since 2000, and its waiver request had been pending for more than three years. During that time, Media General stated "that these outlets have worked effectively together to increase the coverage of local news in the DMA, offering examples of the two media outlets' hurricane coverage, political forums, and investigative reporting."
- In the Tri-Cities DMA, the Commission found that Media General had owned television station WJHL-TV and the *Bristol (Virginia Tennessee) Herald Courier*, since 1998, and its waiver request had been pending for more than two-and-a-half years. Media General submitted information to the Commission that "[s]ince

2000, WJHL-TV has added 90 minutes of additional local news coverage every weekday, which has enabled it to greatly expand its political coverage and broadcast numerous special reports and regularly televised series that would not be possible without access and input from the newspaper's staff."

6. Emergency alert text messaging. On April 9, 2008, the FCC approved the establishment of a nationwide alert system whereby cell phone users would receive text message alerts in cases of natural disasters, national alerts of threats such as terrorist attacks, or child abductions. I understand that a Federal agency, such as the Federal Emergency Management Agency, must now be appointed to take the role of coordinator program and the originator of the alerts.

- **I understand that FEMA has expressed the view that it is not able to take on this function. Why is that? What will the FCC do to find an appropriate Federal agency to perform the function?**

Response:

FEMA asserted in its February 19, 2008, comments in the FCC's Commercial Mobile Alert System (CMAS) docket that it "...do[es] not have the authority during non-emergency periods to develop, implement, operate or maintain elements of the CMAS that regard alerts, warnings or notifications originated by state and local authorities, such as the Aggregator and Gateway functions and the Trust Model of the CMAS, under [its] current statutory authority."

As the Commission stated in the CMAS First Report and Order, "we believe that FEMA, some other entity within DHS or NOAA may be in the best position to perform the functions of the Federal aggregator/gateway. Timely identification of a federal agency capable of fulfilling the aggregator/gateway functions is essential if the Commission is to satisfy the requirements of the WARN Act. Accordingly, the Commission intends to work with its Federal partners and Congress, if necessary, to identify an appropriate government agency to fulfill these roles."

Staff from the FCC's Public Safety & Homeland Security Bureau recently met with staff from FEMA and NOAA to discuss these issues.

- **Will the emergency alerts be available in languages other than English? If not, why not?**

Response:

No, they will not be available in languages other than English. The WARN Act required the Commission to establish the Commercial Mobile Service Alert Advisory Committee (CMSAAC) which would address "the technical capability to transmit emergency alerts by electing commercial mobile providers to subscribers in languages in addition to English, to the extent practicable and feasible."

The CMSAAC determined that the “CMSAAC has analyzed the technical feasibility of supporting Multilanguage CMAS alerts on the various delivery technologies and has determined that support of languages other than English is a very complex issue. Fundamentally the existing air interfaces of CMSPs have technical limitations and the support of multiple languages may result in a significant impact to capacity and latency due to these limitations.”

In the CMAS First Report and Order, the Commission accepted the recommendation of the CMSAAC, and [did] not require commercial mobile service providers to include capabilities for alerts in languages other than English.”

7. Low power FM radio. According to the low power radio service Third Report and Order and Second Further Notice of Proposed Rulemaking, released in December 2007, we understand that the next window to apply for new low-power FM (LPFM) radio stations will be after the Commission has resolved the full-power FM applications filed in October 2007 and has addressed other issues relating to LPFM raised in the Further Notice of Proposed Rulemaking.

- Do you have an estimate of how long it will take to resolve these outstanding issues and when the new window will be open?

Response:

The *Third Report and Order and Second Further Notice of Proposed Rulemaking* adopted in our LPFM proceeding established a number of rules and policies designed to promote and protect the LPFM service, and solicited comment on a number of technical proposals that could potentially expand licensing opportunities in the LPFM service. Comments concerning the proposals discussed in the *Second Further Notice* were due to be filed with the Commission no later than April 7, 2008, and replies were due on or before April 21, 2008. The Commission also received five petitions for reconsideration concerning the conclusions the Commission reached in the *Third Report and Order*. The pleading cycle concerning the petitions closed on April 9, 2008. I anticipate that the petitions for reconsideration and the issues outlined in the *Second Further Notice* will be ready for consideration by the full Commission in the third calendar quarter of 2008.

As you note, in the *Second Further Notice*, the Commission indicated that it planned to open a LPFM filing window “after the Commission has resolved the issues raised in this *Second Further Notice*, and has resolved other issues that could significantly impact the availability of future spectrum for LPFM applicants, including the disposal of substantially all of the applications filed in the recent NCE FM window.”

During the October 2007 noncommercial educational (NCE) FM filing window, approximately 3,600 NCE applications were submitted to the Commission.

Following the close of the window, the Media Bureau initiated a technical review of the applications. The Bureau already has issued more than 300 construction permits in cases of “singleton” filings, *i.e.*, applications that were not mutually exclusive to any other application filed in the window, and has opened a window for the expedited processing of settlement requests.

Questions for the Record from Mr. Regula

First Responder Communications

Your budget request includes a \$900,000 increase for public safety support vehicles and a \$1 million increase for a public safety clearinghouse program.

1. Can you describe how the FCC helps first responders improve their ability to communicate?

Response:

The FCC is dedicated to ensuring operability and interoperability of first responder communications. Among other things, the Commission helps first responders improve their ability to communicate by:

- assisting restoration of communications connectivity during and after disaster events by granting first responders special temporary authority and rule waivers to operate radio stations;
- allocating spectrum for public safety use and managing routine licensing of public safety communications;
- resolving complaints regarding interference to public safety operations;
- addressing first responder requests to use spectrum not allocated for public safety, pursuant to section 337 of the Communications Act;
- encouraging the expeditious development and approval of 700 MHz regional plans and 800 MHz NPSPAC regional plan amendments;
- conducting commercial spectrum auctions (before January 28, 2008) to fund the federal public safety interoperability grant programs;
- working with NTIA and DHS to promote spectrum sharing among federal, state and local agencies for emergency response purposes;
- working with certified public safety frequency coordinators to develop frequency sharing among state and local public safety agencies and first responders;
- implementing a comprehensive program of information outreach directed to the first responder community, including regular Commission participation at conferences, meetings, seminars, and other forums sponsored by public safety associations and other first responder stakeholder groups; and

- sponsoring of public summits and roundtable discussions, at FCC headquarters and off-site locations, that feature direct participation by first responders and other interested stakeholders, and utilizing such opportunities to address specific first responder communications issues, including the availability of spectrum, licensing policy, and practical advice regarding how first responders may obtain access to spectrum resources.

2. How will \$2 million requested increase for vehicles and an information clearinghouse help first responders?

Response:

Vehicles:

The Commission has requested an additional \$900,000 in FY 2009 for public support vehicles. The Commission would use the money to purchase 10 new vehicles for the Enforcement Bureau that will replace the oldest vehicles and those with the most mileage in the current fleet. The average age of the vehicles we would replace is seven years and 50,000 miles, respectively.

These vehicles are used by FCC agents to assist in the investigation and resolution of harmful interference to critical communications systems. The Commission also uses the vehicles to help other federal government agencies, such as the Department of Homeland Security, the Federal Aviation Administration, and the Coast Guard. The Commission uses the vehicles to support local public safety entities such as police, fire departments, and emergency medical personnel. The benefits of a modernized public safety support fleet include faster response time and resolution of interference to critical communications systems during times of crisis. The Commission's fleet has been used, for example, to assess post-disaster communications capabilities in the wake of Hurricane Katrina.

Recently, the fleet has been used in Hayward, California to identify and resolve hoax calls to a 9-1-1 Public Safety Answering Point (PSAP). Agents located the person making the calls and the police arrested him. Agents determined that this person made over 30,000 9-1-1 calls to PSAPs. In New Jersey, the vehicles were used to identify the source of interference to a communications satellite used by the U.S. Government, including the White House Communications Agency.

Clearinghouse:

The proposed Public Safety Clearinghouse Program would enhance and expand the Public Safety and Homeland Security Bureau's outreach efforts to the public safety community.

The Clearinghouse Program Request can be described as follows:

- Establish a Public Safety Official Fellowship Program to anchor the PSHSB Clearinghouse Program. Based on the model of the FCC's Chief Economist, we plan to bring in a current public safety expert to spend a year in residence with the Bureau. This official could be a police or fire chief, emergency management expert, an academic, or a public safety communications expert.
- Add two engineers skilled in public safety communications matters in order to develop a program designed to provide technical assistance to public safety entities.
- Increase the travel budget to \$200,000 for Clearinghouse travel during FY 2009. In 2009, the Bureau plans to reach out to more state and regional organizations and travel to a wider variety of events.
- Increase Clearinghouse Publications for 2009 in order to enhance the Clearinghouse website, create informational videos for the website, and continue to refine and reorganize the website.

The concept behind the information clearinghouse is to provide access by public safety entities to the resources and expertise, and particularly technical or engineering knowledge, of PSHSB and the Commission. This effort would supply needed support to public safety organizations, particularly those from smaller jurisdictions that do not typically have the budget that would allow them to hire individuals with a communications engineering background themselves. PSHSB's engineering staff can also serve as a sounding board for these organizations and, in essence, help them to bridge this technical gap. For example, PSHSB can help those organizations in analyzing their communications requirements or recommending types of technologies or systems to implement.

In addition, PSHSB can complement these organizations' communications emergency planning by providing guidance or gathering plans and best practices from many public safety organizations for widespread dissemination. Public safety organizations can avail themselves of these plans and guidance to either draft their own communications emergency plans or incorporate relevant ideas and aspects of the disseminated plans and guidance. PSHSB staff could also be on call to assist on other matters as requested by public safety organizations.

Auctions

Since 1994, the FCC has conducted auctions for licenses for spectrum, and the proceeds are deposited in the General Fund of the Treasury. Funding to administer this program is not subject to appropriations, but instead is drawn from the proceeds in an amount determined by the FCC and approved by OMB.

Administering spectrum auctions represents a significant portion of FCC operations. The last four appropriations bills placed a cap on the administrative expenses of the auctions program.

1. Can you explain how you have managed the program to comply with this cap, and what the impact of this cap has been on your program operations in the last three years?

Response:

The Commission plans its expenditures to support the auctions program anticipating a yearly cap, and closely monitors expenditures throughout the year to ensure it does not overspend. Each year the Commission's Bureaus and Offices provide estimates of operating expenses, and the Commission develops an agency-wide spending plan based on those estimates. These estimates include allocations for auctions-related activities. The Commission monitors weekly spending reports for compliance with the operating plans and to ensure spending does not exceed the cap level. At the end of each fiscal quarter, Bureaus and Offices refine their operating plans based on expenditures and projected requirements. Using this process, the Commission has managed the administrative expenses of the auctions program within the cap. For the past three years, the cap on auctions expenses has not affected the Commission's ability to conduct an effective auctions program.

2. One of the main concerns of the Committee in past years was that the FCC was improperly charging activities to the auctions program because funding was not subject to appropriations. How well does the FCC's cost accounting system address these concerns?

Response:

The Commission has policies and procedures in place for assigning costs to the auctions program. Furthermore, the Commission has in place a system of controls (including annual reporting of auctions expenditures to Congress) to ensure that all activities charged to auctions funds support the auctions program. The Commission is working to upgrade and modernize its antiquated financial systems in order to strengthen management of its funds, including those used to maintain the auctions program.

- 3. Is the number of auctions scheduled for any given year, the primary cost driver for the administrative expenses? How many auctions occurred in fiscal year 2007, how are planned for fiscal year 2008 and 2009?**

Response:

The expense of running the auction program includes a number of cost components, most of which are fixed costs and only a few of which are driven by the number of auctions conducted in a given year. Salaries of auctions-dedicated employees, expenses for development, testing, and maintenance of the Commission's electronic bidding software, and research on auction designs and outreach efforts, are examples of fixed expenses. The Commission's current cost accounting system does not track costs by auction, but rather it tracks costs of the Auctions Program as a whole.

The Commission conducted five auctions in FY 2007. The Commission has completed one auction thus far in FY 2008, the 700 MHz auction (Auction 73). Two more auctions have been announced: Auction 77, which will be an auction of cellular unserved area licenses, is scheduled to begin on June 17, 2008; and Auction 78, an auction of certain broadband PCS and AWS-I licenses, is slated to start on July 29, 2008.

With respect to FY 2009, reauction of the 700 MHz D Block license could be held as early as the first quarter of the fiscal year (the fourth quarter of calendar 2008). Future FCC spectrum auctions for which dates have not yet been announced could include authorizations for: Advanced Wireless Services in the 2155-2175 MHz band, Low Power Television digital companion channels, FM translators, AM radio permits, FM radio permits, and/or the Broadband Radio Service/Educational Broadband Service.

**Rep. Peter Visclosky's Questions for the Record for Federal
Communications Commission Chairman Kevin Martin
Hearing of the Subcommittee on Financial Services and General Government
April 9, 2008**

1. If a consumer receives a coupon from the government and purchases an NTIA approved converter box today, brings it home, connects it to their analog set and connects the box to whatever antennae they are currently using today and they are unable to receive all of the digital signals from their local broadcast stations, there are several potential causes --
 - a) the converter box is not functioning properly, or
 - b) they are not within the coverage area of a particular DTV signal, or
 - c) the antennae they are using is not capable of picking up the digital signal of a particular local broadcast station, or
 - d) some broadcasters may not be operating their digital facilities at full power, or
 - e) all or any combination of the above.

How will the consumer know what the problem is and what, if anything, they can do to solve it?

Response:

The Commission has developed several publications to educate consumers about the DTV transition and the options available to them. For consumers who purchase a digital-to-analog converter box, we developed a Fact Sheet on Setting Up Your Digital-to-Analog Converter Box, which provides simple instructions and illustrations to ensure that consumers connect their antenna, converter box, and TV properly. This Fact Sheet is available at www.dtv.gov/publications.html and is also available via mail by calling 1-888-CALL-FCC (voice) or 1-888-TELL-FCC (TTY).

We are currently developing a more advanced Fact Sheet that illustrates how to connect a digital-to-analog converter box in order to receive programming from both digital and analog broadcast stations (for those consumers who do not have a converter box with analog pass-through capability).

Regarding potential problems with reception that consumers may experience with digital-to-analog converter boxes, the Commission has developed a Fact Sheet on Antennas and Digital Television, which includes reception information and tips for consumers. This Fact Sheet is also available at www.dtv.gov/publications.html and via mail by calling 1-888-CALL-FCC (voice) or 1-888-TELL-FCC (TTY).

As a result of our recent DTV Consumer Education Report and Order, the Commission is working with NTIA to ensure that retailers participating in the coupon program provide the training necessary for their sales associates to assist consumers in purchasing and setting up their equipment. In addition, the Consumer Electronics Association (CEA) and the National Association of Broadcasters (NAB) have developed a website, www.antennaweb.org <<http://www.antennaweb.org>>, to assist consumers in determining which local stations they can receive and provide suggestions on antenna systems to ensure proper reception.

2. **There are probably millions of consumers who rely solely on over-the-air television and who live near the edges of their local station's analog coverage area. They receive analog signals today, but the quality of the picture may be less than perfect. Nonetheless, they are able to watch television and, importantly, receive news and critical public safety information from their local broadcast stations. Once we make the switch to digital, consumers will either receive a perfect picture or if they are outside a particular station's coverage area they will receive nothing at all. With digital broadcasting, there is no in between fuzzy picture....it's all or nothing. This is called the cliff effect.**

Has the FCC done anything to identify these acutely vulnerable households who may be fully educated about the transition, take every step the government tells them to take and wake up on February 18, 2009 with no television service?

Response:

Our engineers estimate that approximately 5% of households that are currently watching a poor or snowy analog picture may fall on the down side of the digital cliff-affect and will need to obtain a new antenna to obtain service. Approximately 85% of households are receiving their signals by cable or satellite and will not be affected. Therefore, it is only 5% of the remaining 15% of households that are viewing signals over-the-air that may need a new antenna. We have published a consumer guide on TV antennas that explains to consumers they should first try their existing antenna, what to do if they have problems, and information on how to obtain a new antenna should they need one.

The Commission's consumer outreach effort specifically targets consumers who are hard to reach and who may rely on over-the-air television as their source of important news and information, including senior citizens, non-English speaking and minority communities, people with disabilities, low-income individuals, and people living in rural areas and on tribal lands.

3. **As you know, many who rely exclusively on over-the-air broadcasts are some of the most vulnerable populations - seniors, the poor, and those in rural areas. They are some of the hardest to reach to educate about technical change, yet rely the most on their TVs for news, government and school closings, and critical emergency and public safety information.**

What are you doing to ensure that these people will not have their televisions go dark after the switch?

Response:

The Commission's consumer outreach effort specifically targets consumers who are hard to reach and who may rely on over-the-air television as their source of important news and information, including senior citizens, non-English speaking and minority communities, people with disabilities, low-income individuals, and people living in rural areas and on tribal lands.

Regarding senior citizens, last September, we presented two DTV education sessions at the national AARP convention in Boston, and we have plans to make similar presentations at this year's convention in Washington, DC. In addition, late last fall, I was interviewed about the transition on AARP radio which is broadcast on 170 outlets nationwide reaching more than 1,000,000 people. I was also interviewed for, and quoted in the January/February issue of AARP's widely circulated Magazine, which has a circulation of 23.5 million. AARP is also regularly including stories on the DTV Transition in their Monthly Bulletins. Further, AARP will be distributing DTV information at a series of eight "road show" events they will hold around the country from June to September of this year.

In addition to working with AARP, we have also been working with other senior organizations as well. For example, I taped a PSA for Retirement Living TV which reaches nearly 30 million homes nationwide. Also I participated in a story about the transition for the Erickson Tribune, which is distributed to residents in their retirement communities and is read by more than 6 million people. We are also pleased to be partnering with The National Association of Area Agencies on Aging (N4A) to cosponsor DTV awareness sessions during the coming year in conjunction with their 655 area offices throughout the nation. This is a useful opportunity to educate caregivers, social workers and others who care for the elderly in their communities.

In addition to working with these organizations, we have and continue to set up partnerships with many State Aging Offices. As a result of our efforts, 34 states, the District of Columbia, and Puerto Rico have agreed to conduct DTV outreach with the FCC in varying capacities, including distributing DTV information at conferences and events.

Commission staff located in field offices throughout the country are also working on DTV transition education and outreach. Starting last year, FCC field agents have

held DTV Awareness Sessions and distributed information to senior centers, libraries and other local venues frequented by older Americans. Through the work of our field agents, we have been able to reach these consumers in a total of 45 states – ranging from Alaska to Florida. We have already distributed information to over 3,308 senior centers, and 1205 community centers and given nearly 676 presentations with 137 more scheduled in the days ahead.

The FCC also held a DTV Workshop focusing on seniors at FCC Headquarters on November 8, 2007. It consisted of two panels discussing the transition's effect on seniors plus exhibits hosted by other government and industry organizations. Based on the discussions and the relationships formed at that Workshop, we reached out to faith-based organizations, provided them with consumer education materials on the transition, and continue to follow up with them to answer questions on the transition.

The Commission is also taking specific steps to inform low-income consumers about the transition to all digital broadcasting. We have forged a partnership with the Department of Health and Human Services to assist the FCC in disseminating DTV material to target populations, including low-income consumers. HRSA (Health Resources and Services Administration) has forwarded FCC DTV information to approximately 4,000 grantee organizations, and the message also went out to groups like the state Primary Care Offices and Primary Care Associations and the National Association for Community Health Centers - organizations which represent many more non-Federally funded health centers and clinics nationwide. HRSA asked these organizations to post and distribute our DTV flyer in their clinics and to distribute information to patients. ACF (Administration for Children and Families) is distributing information through their 1,600 Head Start grantees, covering more than 18,000 centers around the country. The Substance Abuse and Mental Health Services Administration (SAMHSA) is distributing DTV flyers to approximately 50,000 individuals each month who call requesting information. Other HHS agencies are also distributing our flyers, displaying our posters and linking to our dtv.gov webpage.

We have contacted social worker associations in each of the 50 states, plus the District of Columbia and Puerto Rico, and thus far have received commitments from 26 of them to assist us in getting the word out about the DTV transition. These include publishing DTV information in their monthly newsletters and distributing DTV materials at events and conferences.

We have also reached out to representatives of the state health departments in each of the 50 states and U.S. territories, and thus far have received commitments from 32 of them to assist in distributing DTV awareness materials to the consumers they interact with on a regular basis. These include, for example, posting DTV materials in their service and waiting areas, distributing our fact sheets and other publications at events attended by consumers and inserting DTV information in mailings to consumers.

In late February, we posted a simplified DTV one-page flyer on our Web site, and have offered it for distribution to all our partners. This was developed in response to requests for a more streamlined, non technical, and easy to read DTV informational flyer.

In addition, on April 1, 2008, the FCC sponsored a DTV Consumer Education Workshop focusing on reaching low-income consumers. As a result of our panel discussions, we received several positive suggestions and offers of assistance from our panelists on how best to reach members of their constituencies with information on the DTV transition. We will be providing the organizations represented with DTV informational materials such as our posters, flyers, and fact sheets that can be displayed at their events and facilities throughout the country. The National Energy Assistance Directors Association offered to provide DTV information to low income consumers who sign up for their program. In addition, as noted earlier, all eligible telecommunications carriers (“ETCs”) that receive federal universal service funds are now required to provide DTV transition information in the monthly bills of their Lifeline/Link-Up customers.

The Commission is also taking specific steps to inform people living in rural areas and on tribal lands about the transition to all digital broadcasting. For example, the Commission recently established a partnership with the United States Department of Agriculture’s 4-H office. On April 1, 2008, the FCC, with NTIA and USDA, participated in the annual 4-H Youth leadership conference and presented two “Train the Trainer” seminars to approximately 100 youth members of 4-H chapters from the various states. FCC staff provided information which these youth representatives and their colleagues back home can use to conduct awareness sessions in their communities. In addition, each participating representative will receive a “DTV Outreach Tool Kit” containing more extensive materials for conducting their outreach sessions. We understand that the DTV outreach that will be performed by these young community leaders will assist them in meeting the community service requirements of their 4-H membership. Another important component of our partnership with USDA is the placement of DTV transition educational materials at state and county fairs throughout the country via sponsoring 4-H chapters and local extension service professionals.

We also have forged a partnership with the Bureau of Indian Affairs. This collaboration has resulted in the distribution of DTV materials throughout Indian Country, utilizing all 50 of their nationwide area offices. Commission staff has attended and provided DTV materials at the National Conference of American Indians, and the Rural TeleCon Conference, with many additional events planned for this year such as participation in the National Association of Development Organizations in Alaska Conference and the Affiliated Tribes of Northwest Indians Annual Conference.

Finally, on January 31, 2008, we held a workshop at Commission headquarters focused on reaching rural consumers and consumers living on tribal lands. We received many useful suggestions at this workshop on how to better reach these communities. For instance, our DTV one page informational flyer is being translated into Navajo, one of the most-spoken Native American languages in the United States.

4. **Currently, the rules limit only two coupons per physical address. This will be a real problem for seniors who live in nursing homes and have their own TVs in their rooms, many of which, we know will each need separate converter boxes. And we know that the senior population relies heavily on over-the-air broadcasts.**

Have you been working with NTIA to correct this problem? If so, how? Have you been working to educate nursing centers and senior citizens about what steps they must take to ensure their television service continues? If so, how?

Response:

On April 24, 2008, NTIA released a proposed rule that would grant residents of nursing homes eligibility to receive coupons under the TV Converter Box Coupon Program. Specifically, NTIA proposes to waive the “eligible household” and application requirements in section 301.3(a), and section 301.3(e), for individuals residing in nursing homes or other senior care facilities, subject to the alternative application requirements specified therein.

Question for the Record from Mr. Kirk

1. **Mr. Chairman, according to press reports on the white spaces proceedings, the devices submitted for the most recent round of tests are performing poorly at protecting existing band devices – including wireless microphones - from interference. Every Member of Congress knows how wireless devices can interfere with microphones. We all carry at least one cell phone and multiple blackberries, and these devices interfere with the sound systems right here in the Capitol. I am glad the lab tests are underway, and I hope that the results of these tests will be the primary guide your final decision on whether to allow unlicensed use of the white spaces. I would like to ask if, no matter what your final decision is, will it give top priority to protecting existing devices from all interference, and that comprehensive protections will extend to the broad class of wireless microphone users?**

Response:

Any rules the Commission establishes to provide for the operation of unlicensed devices in the TV bands must protect against harmful interference to the authorized broadcast services that already operate in this spectrum. These services include full power TV stations, low power TV stations, and wireless microphones. The Commission is developing an extensive technical record through our pending rulemaking. The Office of Engineering and Technology is currently performing both laboratory and field tests of several prototype TV band devices to evaluate the interference potential. Both laboratory testing and field testing of prototype white space devices are open to observation by any interested party. I can assure you that we will thoroughly consider all of the engineering data, test results (*i.e.*, both laboratory testing and field testing), and responses submitted in the record before adopting final rules.

THURSDAY, APRIL 10, 2008.

SMALL BUSINESS ADMINISTRATION

WITNESS

STEVE PRESTON, ADMINISTRATOR

CHAIRMAN SERRANO'S OPENING STATEMENT

Mr. SERRANO. The subcommittee will come to order. We welcome you to this hearing of the Financial Services and General Government Subcommittee.

Today, the subcommittee will hear from the Administrator of the Small Business Administration, the Honorable Steven Preston. Mr. Preston has been very kind to wait. This is the only hearing that hasn't started right at 10:00 this year.

Mr. REGULA. It is my fault.

Mr. SERRANO. No. You had visitors, and I understand.

Mr. REGULA. I had constituents, and they are number one. Sorry.

Mr. PRESTON. The way it should be.

Mr. SERRANO. I want you to note that, as part of his legacy, the gentleman is not running for reelection and yet he still takes time for his constituents. Some would say, what can they do to me? There is still a governorship there in the future.

Mr. REGULA. It is just the right thing to do.

Mr. SERRANO. That is right.

Mr. Preston is the 22nd administrator of the SBA and has been in his position since July of 2006.

Administrator Preston, we welcome you to this hearing; and we are pleased to have you.

Mr. PRESTON. Thank you.

Mr. SERRANO. Small businesses play a crucial role in the national economy. Firms employing fewer than 500 employees comprise about 99.7 percent of all businesses in the Nation and employ roughly half of all private sector employees. Small businesses are crucial to new job creation. Sixty to eighty percent of all new jobs created over the past 10 years have been created by small businesses.

The SBA promotes small business development and entrepreneurship through lending guarantees, training, and counseling programs, government contracting programs, and advocacy. The agency also helps business and homeowners affected by disasters through its Disaster Loans Program.

The agency's budget request for fiscal year 2009 is \$658 million. This includes an operating budget of \$382 million, which is a \$22 million, or 6 percent, increase over the current year. I know ensuring that the agency has sufficient operating funds is a priority for you. The subcommittee looks forward to working with you this year to make sure your agency has sufficient operating funds.

Unfortunately, the budget request is not so generous to certain small business assistance programs administered by the SBA. There are a number of budget cuts and eliminations that concern me. For example, small business development centers would be cut by \$10 million from the current level. This reduction is troubling not only because SBDCs need more funding for their core activities but also because recently enacted legislation establishes new SBDC grant programs that will need funding.

I am also concerned about some of the budget's proposals for programs that help the smallest entrepreneurs as well as programs that aid socially and economically disadvantaged owners of small businesses. Technical assistance under the micro loan program would be eliminated, and the budget would also eliminate the subsidy appropriations for micro loans.

Additionally, funding for the Program for Investment and Micro Entrepreneurs, or PRIME, would be eliminated. This program provides grants to help with training and technical assistance for disadvantaged businesses, particularly those in very low-income areas. I am troubled that programs to help low-income populations are targeted for cuts.

The SBA has an important mission, and this subcommittee wants to help you accomplish this mission. I look forward to working with you this year as our appropriations bill moves forward.

And I want to reiterate that. It is in our best interests, all of us, that small businesses continue to grow. So any changes we want to make in the budget, any nudging that we make for the agency to move in certain directions is never intended to create a problem or confrontation but simply to help that community and to bring more people into the fold.

With that in mind, I would like to present to you now the gentleman who still loves his constituents more than ever before, Mr. Regula.

MR. REGULA'S OPENING STATEMENT

Mr. REGULA. Thank you, Mr. Chairman. And, for everybody here, the constituents are why we are here.

Mr. SERRANO. That is right.

Mr. REGULA. And we are here, and that is why we have a Small Business Administration, because that is part of our governing process. And I might say that every big business starts as a small business.

I have got a classic in my district. I have the Smuckers people that do the jams and jellies, and the original grandfather of the two young men that run it now started out making apple butter in the backyard and selling it to his neighbors. Today, they employ thousands of people. They have facilities all over the United States and some overseas, and they are a major, major company. That is a classic example.

And every big business has to start from a small business and somebody with an idea. The biggest one in my district is the Timken Company with 23,000 employees. An early Timken person said, there must be better wheels to move on a wagon; and he had the idea of roller bearings. That was his idea; and it has grown into, obviously, a big business.

So what I am trying to say is what you do in this administration and helping small business is the key to jobs and to economic development in the future. And, today, that is a big topic on everybody's mind, is the economy and jobs and so on. But small business entrepreneurs are the place where all these things get started.

So I am pleased to see that last year SBA assisted 88,000 businesses with 7a loans. You were involved in Katrina and helping people who had a lot of bad luck and are getting loans to get started again. So we welcome you. And the Chairman has done a good job of outlining your challenges, and I won't reiterate them, but we look forward to your testimony.

And I am interested in the definition of a small business. Is it employees or is it gross product? How do you define a small business?

Mr. SERRANO. I was going to ask the same question. But I have another question as a big Smuckers fan. What is the difference between jam and jelly? I know one spreads better on bread.

Mr. REGULA. Strawberry jelly would be clear, would be jelly. Strawberry jam would have little pieces of berry in it.

Mr. SERRANO. I thought those were preserves.

Mr. REGULA. Jams are preserves.

Mr. SERRANO. I am from the city. What do I know? I am trying to get some help here.

Mr. REGULA. I am going to send you over a package.

Mr. SERRANO. Well, that was my next point. Under the House Ethics Rules, anything that you grow in your backyard within the law is allowed to be shared with Members.

Mr. CRAMER. I don't understand the difference, either, so I might need a sample.

Mr. SERRANO. I am the guy who dares ask these questions. And these are all country boys here.

Mr. PRESTON. As evidenced by last year's hearing on the facial hair discussions.

Mr. REGULA. I suppose he wants his jam, too. It is good. I have to say, they put out the best product.

Mr. SERRANO. I love it.

Mr. REGULA. And I have been in their plant in Orrville, Ohio, and you could eat off the floor there. They are so careful in their standards. In this day and age, we worry a little bit about sometimes products are not up to snuff. But they really run a good operation.

Mr. SERRANO. I tell you, there is a place for the two of us on Broadway. I am between two country boys who can't tell me the difference between jam and jelly. I love it.

Administrator Preston, now that we have bored you with our town and country humor, we do welcome you. We appreciate the work that you do and the service that you give our country. And please keep your testimony down to 5 minutes so we can beat you up after that. But your full statement will go in the record.

ADMINISTRATOR PRESTON'S TESTIMONY

Mr. PRESTON. All right. Thank you very much, Mr. Chairman, Ranking Member Regula, and members of the committee. I am

pleased that I both know the Smuckers Company and the difference between jam and jelly. So I feel like I am starting out ahead of the game here, which is great.

I think you highlighted a number of factors in our budget already, Mr. Chairman. There are a couple things I think I would like to highlight.

We are coming off a year in 2007 where we have seen a lot of progress at the agency. In our lending programs we have seen record volumes, and we have made tremendous reforms there in working with the banking sector, which is very important to us right now, given what is happening in the credit industry. We have made a lot of progress in approving the quality of information in small business contracting and helping businesses advance there. We have fully reengineered our disaster operations. In fact, I have been around the country to see the evidence of that; and it is having an effect on the speed with which we are getting out loans. We are proud of the amount of help we are giving people through good customer service and getting them through that process. And we also supported over one million small businesses who used our resource partners this past year to get technical assistance.

As you mentioned, this year we are requesting \$657 million in new budget authority. That is a 15.5 percent increase off of the 2008 enacted level. That really breaks down to a few pieces. As you mentioned, Mr. Chairman, it is about a 6 percent increase in our fundamental core operating budget; and that is really the money we use to run the agency.

We are also requesting \$160 million for disaster program administration and \$14 million for disaster program subsidy. That is in addition to about \$150 million in subsidy that carries over from 2007 to 2008, which would be added into our ability to fund that program.

The noncredit programs are in line with our prior request, but they are below the 2008 enacted level, and we submitted our 2009 budget in line with our 2008 requests. When the appropriation was completed, those programs were actually increased. So we are in a situation where the funding level for 2008 is actually higher than what we have requested in 2009.

And the other thing I would just mention is we are asking for an authorization in our guaranteed business loan programs which shows about a 37 percent increase. That doesn't require an appropriation because those are zero subsidy programs, but I think it is important to note we have asked you for that growth.

The other thing I feel compelled to mention—you and I have talked about this, but it is such an important topic. I have been down to Colombia twice. I was in Florida last week doing a trade symposium with 400 small businesses on exporting. Most of them were exporters to Latin America. Exports to Colombia are about 35 percent from small businesses. And I know that, right now, that particular agreement is caught up into a broad debate; and it is something that is very much in front of you.

We are all very hopeful that this agreement will be able to be considered on the merits of the agreement and hopefully be advanced, because we do think it is a very important market for small businesses. It will level the playing field for them in terms

of tariffs. But, also, like many agreements, so many countries where we don't have FTA's, it is very hard for small businesses because the regulations are hard to understand, there is a lack of transparency, and a lot of paperwork. Our goods get to the borders. They don't know what to expect when they get to the border. If they get in the country, they don't have proper intellectual property protections.

And I think what I have consistently heard from small businesses is, aside from tariffs, it is all these nontariff issues that make it so hard for them to move ahead in export markets. During a time when so many of them are challenged for finding markets for their products right now, this is an important way for them to be able to address the challenges in our economy and continue to add the two-thirds of the new jobs that you all mentioned. And so I just urge you all to do whatever you can to help let that agreement come to a balance so that we can address it on its own merits.

But, other than that, I would love to open it up right now and answer any questions you might have.

Mr. SERRANO. Thank you.

[The information follows:]



TESTIMONY OF
SMALL BUSINESS ADMINISTRATION
ADMINISTRATOR STEVE PRESTON
United States House of Representatives
U.S. House Committee on Appropriations Subcommittee on Financial
Services
Thursday, April 10, 2008

Chairman Serrano, Ranking Member Regula, distinguished members of the Committee, thank you for inviting me here today to discuss the President's Fiscal Year (FY) 2009 budget request for the U.S. Small Business Administration (SBA).

President Bush's unwavering support for America's small business is evident. His leadership has ensured that small businesses play a vital role in our economic growth - adding more than 8.02 million new jobs since August 2003. By reducing the tax rates small business owners pay and allowing increased expensing on new equipment and software, small businesses have more capital available to hire new workers and expand their businesses and inject new energy into our economy.

The Administration is confident that the fundamentals of our economy remain strong and resilient, and the spirit of innovation in small businesses will continue to provide the core of our economic strength. The Economic Stimulus Act of 2008 passed by Congress and signed by President Bush is a robust package that puts money back into the hands of American workers and businesses. Congress deserves credit for your prompt action on this legislation. Your leadership will mean that the rebate payments for individuals and married couples and the investment incentives for businesses will help create jobs and stimulate our economy.

In addition to the Economic Stimulus Act of 2008, I join the President in pushing for long-term economic policies that are in our country's best interest - particularly a pro-growth tax system. We need to encourage investment by keeping taxes low. The President's tax relief has provided important capital to small businesses to support economic expansion, job creation and innovation. Small businesses face a tax increase of 17 percent, or \$4,000 per year, on average, if the President's tax relief isn't made permanent. I urge you not to ignore this important small business issue as you consider the FY 2009 budget.

Another important issue for small business is free trade. The pending agreement with Colombia is designed to level the playing field on tariffs for the benefit of U.S. exporters, as well as non-tariff barriers like intellectual property protections, excessive licensing and inspection requirements, burdensome paperwork and inconsistent customs procedures. It is important to note that in 2005 85% of U.S. companies exporting to Colombia are small and medium-sized enterprises (SME), with fewer than 500 employees, accounting for \$1.7 billion in merchandise. Small and medium enterprises account for nearly 30 percent of the value of U.S. exports, whereas the SME percentage to Colombia is 35%. This Free Trade Agreement is an important step in breaking down tariffs and other barriers to trade that often shut out small firms from key emerging markets. Export growth accounted for over 40% of growth in the U.S. economy in 2007. As we look for ways to improve the uncertain economy, it is more important than ever for the United States to open new markets and knock down barriers for U.S. exports.

FY 2007 was a year of significant accomplishment for the Agency. By building on the accomplishments of FY 2007 and FY 08 this budget request reflects our leadership team's vision for the Agency's future. In FY 2009 SBA will continue to focus on our reform Agenda driven by clear outcomes, focusing on serving its customers effectively, enabling our employees, and operating an accountable organization. We will renew our focus on ensuring that its products and services are accessible to entrepreneurs in the most underserved markets – those in low to moderate income areas, HUBZones, and Empowerment Zone/Enterprise Communities.

- SBA's Fiscal Year 2009 budget request reflects the President's continued commitment to America's small businesses and the vital role they play in our economy. Enactment of this request will enable SBA to continue serving the small business community while supporting SBA's strong track record of fiscal responsibility. SBA's total budget request for FY 2009 is \$657 million in new Budget Authority. This represents a 15 percent increase over the FY 2008 appropriation. From the standpoint of the Agency's operating budget, this request represents a 6 percent increase above FY 2008. To understand SBA's budget and compare it to previous years requires analysis of four distinct components: Operating expenses, disaster, resource partners, and earmarks.
 - Operating expenses: The request for FY09 operating expenses is 6 percent, or \$22 million above FY08. Operating expenses represent funds to run all non-disaster aspects of the agency. This includes compensation and benefits, contracts, travel, supplies and other mandatory items like rent and workers comp. It also allows SBA to allocate substantial new dollars for technology and employee training.
 - Disaster: For FY09 the agency requests \$160 million for disaster program administration and \$14 million for disaster program subsidy, and anticipates an additional \$150 million in subsidy carryover from 2008. In FY08, no money was requested for the disaster program – it was funded out of carryover balances from the previous year.
 - Business Credit: Supports \$28 billion in guaranteed business loan volume, a 37% increase over 2007 actuals. Since implementation of zero-subsidy in

2005, SBA has supported record loan volumes, while becoming more administratively efficient.

- o Resource partners: The request is flat to FY 07 levels and FY 08 request, although lower than the FY 08 appropriation.
- o Underserved Markets: This year we are requesting an additional \$250,000 to support an innovative new program, the *SBA Emerging 200* initiative, which will provide capital access, business planning, government contracting and mentorship assistance to 200 companies in 11 inner city communities across the country.

Highlights of Major Accomplishments in FY 2007

Before I talk about our vision for FY 2009 I want to highlight some of the Agency's accomplishments in FY 2007 because they provide the backdrop to our plan for 2009, and the work we are continuing in 2008. FY 2007 was another year of significant accomplishment for the SBA not only in our core programs but in our overall management.

Capital Access: A total of 103,000 new 7(a) and 504 loans were approved – the most in the Agency's history. This success was achieved without requiring credit subsidy from the taxpayer. These loans represent \$19.8 billion in new lending to America's small businesses. These small businesses were able to start, expand or grow, through access to capital that likely would not have been available without the SBA's involvement. The SBA contracted with the Urban Institute to assess its small business lending programs. The study found that SBA backed almost 19 percent of all commercial small business lending over the period analyzed, 2001 – 2004. They also found that SBA programs are more effective than conventional lenders in reaching minorities, women and start-ups. The findings support the conclusion that SBA's programs are, in fact, supporting small businesses that cannot obtain credit elsewhere. The study also concludes that average sales and employment increased over time for SBA-financed businesses. For example, small businesses receiving 7(a) and 504 loans showed increases in employment of 31 and 35 percent, respectively, three years after receiving SBA financing, as well as 42 and 44 percent increases in sales.

Disaster Assistance: The Office of Disaster Assistance completed a fundamental reengineering of its disaster loan processing operation that has dramatically shortened response times, improved quality of service and increased borrower support for all disaster victims. Processing backlogs were eliminated and feedback on the new approach has been universally positive. The Agency completed a Disaster Recovery Plan that describes the process that has been established to ensure effective Agency-wide operations in the event of another catastrophic disaster similar in magnitude to Hurricanes Katrina, Rita and Wilma.

Government Contracting/Business Development: During FY 2007 SBA worked with Federal agencies to improve the accuracy and reliability of contracting data by identifying database miscoding and anomalies. In FY 2006 (the most recent fiscal year for which data is available), Federal agencies reported that a total of approximately \$78 billion Federal prime contract dollars went to small businesses. Contracts to service-disabled veterans increased by 50% over FY 2005, from \$2 billion to \$3 billion; contracts to women-owned small businesses increased by \$1.5 billion; contracts to Small Disadvantaged Businesses companies rose by \$2 billion; and contracts to HUBZone companies were up \$1

billion. This shows record levels of prime contract dollars for all programs across the board. The Agency has also undertaken extensive measures to simplify 8(a) certifications and reviews, train our field employees and automate their paperwork to increase and improve their outreach to small businesses, and redirect responsibilities to Procurement Center Representatives (PCRs) to focus more heavily on helping direct contracts to small businesses.

Entrepreneurial Development: In FY 2007 almost 1.1 million small businesses and entrepreneurs utilized the expertise of the SBA's resource partners including Small Business Development Centers, Women's Business Centers and SCORE. The Agency leverages its resource partner network for training and counseling, business plan development, marketing strategies, implementing new technologies, accessing capital, winning government contracts, and many other undertakings vital to the success of a small business. During FY 2007 more than 240,000 small businesses took advantage of the SBA's free, online business courses offered through the Small Business Training Network (www.sba.gov/training). This year the Agency introduced an interactive Small Business Readiness Assessment tool to help individuals prepare for entrepreneurship.

Management: FY 2007 was a landmark year for the SBA in the area of financial management. As a major success in our Reform Agenda to ensure good stewardship of the government's resources, the Agency received an unqualified independent audit opinion with no material weaknesses – the first time since FY 2000. This result reflects the improvements the Agency has made in the quality of its financial processes, data integrity, and financial statements. By the end of FY 2007, the SBA made improvements in all nine major management challenges identified by the Inspector General.

In both the 2004 and 2006 Office of Personnel Management employee survey, SBA ranked 30th out of 30 in the Best Places to Work ranking provided by Partnership for Public Service. Thanks to our Reform Agenda, employees clearly see change. This year's SBA Annual Employee Survey results were remarkable:

- Positive scores improved in 38 out of 39 categories.
- Overall, job satisfaction increased 9 percentage points.
- Satisfaction with whether employees have the right skills, can use their skills, and improve their skills, increased from 11 to 13 percentage points.
- Satisfaction with how well leadership communicates goals, priorities, and other information improved from 11 to 16 percentage points.
- The respect employees have for senior leaders increased over 21 percentage points.

The strongest results appeared in areas where we have driven the greatest change. Employees are living the changes, believing that progress will continue– and are energized by it.

Highlights of the Budget Request

The resources requested will support a total of \$28 billion in small business financing, which represents a 37% increase over business lending for FY 2007, through the 7(a), 504, SBIC, and Microloan programs. For its flagship 7(a) program the Agency requests resources to support \$17.5 billion in lending, a 30% increase over the FY 2007 lending levels. The

Agency also requests resources to support \$7.5 billion in lending for the 504 program, a 19% increase over the estimate loan level in FY 2007. Finally, \$3 billion in lending resources are requested for the SBIC Debenture program.

The FY 2009 Budget request supports other critical activities including:

- A Disaster loan volume of \$1.061 billion in direct lending, the normalized ten-year average;
- Targeting a total of \$85 billion in prime Federal contracting dollars to be awarded to small businesses in FY 2009;
- Investment in the Agency's human capital through continuation of the successful training and development programs, including "SBA University," ;
- Mentoring programs, succession planning, and proactive recruitment of highly qualified staff;
- Continuation of the modernization of the Agency's loan management and accounting system;
- Management of *Business Gateway* to provide a single site resource for small businesses and entrepreneurs to access information they need from their government;
- Strengthening and upgrading the Agency's information technology infrastructure to provide an effective, robust, secure, and high availability information systems to support the Agency's operations; and
- The SBA's FY 2009 budget request will support 2,123 FTEs from the Salaries and Expenses budget, which is a steady staffing level planned to be reached by the end of FY 2008.

Vision for the Agency's Future

As part of developing a vision to address major challenges and opportunities, in mid-2006 SBA listened to our partners and other stakeholders, our employees, and most importantly, customers who used our services. We also dug deep into operational information to get a clearer picture of what was happening. And over time, we instituted a robust system of performance measures, analyzed data on our markets, and began disciplined reviews of how we were doing, where the issues – and opportunities – really were, and what worked and what did not.

The next step to effective change was to bring a vision to the Agency. The SBA's vision for FY 2009 is to build on the important progress currently under way in three primary areas:

- Underserved markets;
- Disaster assistance; and
- A Reform Agenda to improve the effectiveness of the Agency in meeting the needs of America's entrepreneurs.

Underserved Markets

One of SBA's major initiatives is to accelerate entrepreneurial success through focused delivery of SBA products and services to underserved communities. Supporting small business formation and growth in underserved markets will energize the local economy, create jobs and bring investment to drive a sustainable economic base. The overall initiative will consist of a combination of program level and local level activities designed to serve major underserved segments in both inner-city and rural environments, and extend Agency support through each stage of entrepreneurial growth.

More specifically, the SBA is launching or redesigning lending products to reach small businesses in our Underserved Markets, expanding partnerships with other service organizations with a complimentary mission, and rolling out targeted development programs to reach these entrepreneurs. One example is The *SBA Emerging 200* initiative provides advanced technical assistance focused on business growth to at least 200 emerging inner city companies across 10 cities. The SBA would provide training grant(s) (totaling \$250K a year) to organizations that will deliver a combination of capital access, business planning, government contracting and mentorship assistance to emerging companies from locally underserved areas.

Disaster Assistance

The SBA has completed a major process and policy redesign to ensure we respond more rapidly in assisting small businesses and homeowners seeking financial assistance after a disaster. The Agency expects to continue its progress with the planned introduction of an Electronic Loan Application (ELA) in the summer of 2008. In addition, we are establishing an Executive office of Disaster Strategic Planning and Operations to ensure the smooth continuation of Disaster operations for direct and guarantee lending; contracting assistance; and technical assistance.

The Accelerated Disaster Response initiative focused on improving the disaster victim's end-to-end experience from disaster loan application, through approval and closing, to final disbursement of funds. The driving principles are speed of response, customer support and quality. Multiple teams worked on identifying and implementing reforms and improvements to our processes.

The SBA instituted a communications plan in which the regional and district offices work in conjunction with the Office of Disaster Assistance to help disseminate disaster information throughout the declared disaster areas. To better accomplish this task, the Agency prepared a disaster tool kit to be used by regional and district offices. The regional and district offices are instrumental in providing valuable community outreach efforts throughout their local areas.

We plan to offer applicants the ease of applying electronically for disaster loans through the Electronic Loan Application (ELA) after its expected completion in the summer of 2008. The ELA, combined with upgrades on the Disaster Credit Management System (DCMS), position the SBA to meet the needs of Disaster Assistance applicants more quickly while using fewer resources.

The SBA also issued a Disaster Recovery Plan to meet future challenges depending on the magnitude of the disaster (levels I – IV). The plan encompasses a disaster recovery framework that includes the disaster assistance process, operational support, roles and responsibilities, business process reengineering, forecasting and modeling, surging to accommodate needs, simulations, a communications plan, and ongoing initiatives.

The Disaster Recovery Plan also supports the following outcomes:

- Support of long-term economic recovery by providing capital to help disaster victims rebuild and withstand economic injury;
- Faster decisions on disaster loan applications, closing and disbursement;
- A customer-focused, transparent, outcome-driven model of performance;
- A strong, standing, Core Capability supplemented by Surge Capacity; and
- Processes coordinated with federal guidance and protocols for disaster recovery (e.g., the National Response Plan (NRP) and the National Incident Management System (NIMS), where applicable).

The SBA's Reform Agenda

What we hear from our partners and customers is that secondary factors are often as important as the primary product or service that we offer – factors like ease of use, timeliness and customer support. There is a fundamental connection between the effectiveness of our programs and the way we deliver them.

Through the Agency's Reform Agenda, the SBA is driving operational improvements by becoming an organization that is:

- More customer focused;
- Enabling employees and improving the SBA's work environment;
- Ensuring stewardship of the government's resources through accountability, efficiency, and transparency; and
- Outcomes driven.

Becoming More Customer-Focused

We have a renewed focus across the SBA to drive improvements in customer service and simplify Agency programs to make them more accessible to the public, small businesses, and resource partners.

The SBA executes its mission through a nationwide customer-oriented network of:

- Small Business Development Centers in all 50 states and U.S. territories, with more than 950 locations across the country;
- SCORE chapters in over 800 locations;

- A national network of community-based Women's Business Centers to help women start and run successful businesses;
- SBA district offices in every state;
- Eight disaster loan and business servicing centers;
- SBA Trade Specialists located at U.S. Export Assistance Centers in major metropolitan areas throughout the United States; and
- Six Area government contracting offices with procurement center representatives (PCRs) covering over 300 buying activities.

The SBA is expanding its online presence to meet the evolving demands of its customer base. In 2007 the SBA introduced the Small Business Primer: Strategies for Success, a free, online training course to assist individuals who are considering entrepreneurship or are in its early stages. SCORE will increase capacity and efficiency by developing a national call center and workshop registration center. The call center will remove the routine administrative burden of telephone answering and workshop registration from the volunteers. This call center model will enable SCORE volunteers to dedicate more of their time to provide additional client services at the chapter level. SBA has provided an additional online course to teach small businesses how to do business with the federal government.

To increase access to capital for small business, we have developed a series of initiatives aimed at making our programs easier for lenders to use, with a particular emphasis on assisting underserved markets and veteran communities. To enhance customer service, the SBA re-engineered processes in guaranty purchasing centers, focusing on strategies to improve the centers, enhance workflow, redesign processes, and standardize procedures. Performance measures and scorecard metrics are being established to promote accountability and transparency. A customer help function is being incorporated into the operation to provide better service and communication. In addition, a service outreach function has been created to work directly with larger lenders and with smaller lenders in partnership with the district offices to continually improve the quality of their interactions with the service centers and thus shorten cycle times.

We recognize the need for SBA to better assist small businesses to compete for government contracts. Additional procurement center representatives are being hired to ensure that small businesses are awarded their fair share of government procurement. We have also developed a "Quick Market Search" tool, an Internet engine linked to the Central Contractor Registration System (CCR).

The Agency created a Procurement Scorecard which measures how successful Federal departments and agencies are in meeting their small business contracting goals. This public scorecard will provide improved measurement and transparency to better allow small businesses to evaluate how the contracting offices are fulfilling the government's procurement obligations.

The SBA also plans to publish a scorecard of its resource partner programs. The SBA leverages its Entrepreneurial Development Management Information System (EDMIS), to capture and analyze program impacts. The higher-quality information allows the Office of Entrepreneurial Development to better manage its programs to increase effectiveness and efficiency, and by publishing these metrics we will also bring transparency to the programs.

The Business Gateway portal continues to improve and expand upon its proven formula of single source information for businesses hungry for quick and easy access to government-wide compliance, regulatory and policy information.

Enabling Employees & Improving SBA's Work Environment

Employees are essential to the success of any service organization. As I mentioned previously, we have made great strides in 2007 that we plan to build upon. SBA will continue to build upon the success of SBA University, and to respond to survey results that showed that employees have a continuing desire for skills development. The budget request includes \$1.15 million for this centralized training.

The budget request also includes \$200,000 for the Office of Business Operations to satisfy the requirements set forth in OMB policy for developing and managing the acquisition workforce. Under this directive, affected workforce members must meet mandatory and periodic discretionary training requirements.

Included in the budget request is an additional \$130,000 for a Government Contracting/Business Development training initiative. The training initiative will involve district office field liaisons and Government Contracting Area Office staff and focus on program administration and delivery with special emphasis on strategies to increase prime and subcontract awards. These conferences are expected to expand and increase understanding of the program and, more importantly, to begin to build a public/private sector network that will promote and support the WOSB, SDVOSB and HUBZone program within local communities.

The budget request includes an increase for the Office of the General Counsel of \$150,000 for training. The General Counsel has conducted an internal assessment of its operations. This review took into account an in-house survey, discussions with field personnel including regional administrators and district directors, and consideration of the comments and recommendations of Administrator's Field Advisory Committee. This review suggested that a coordinated training program for the legal staff is a necessity. If the General Counsel is to meet or exceed its strategic goals and long term objectives, it is essential that an attorney training event take place in FY 2009.

Ensuring Stewardship of Taxpayer's funds through Accountability, Efficiency, and Transparency

During this past year the Agency created a Performance Management Office to focus on internal operations and establish an agency-wide Performance Management Framework to better align Agency mission, funding and priorities. That office has developed enhanced monthly performance management reports to closely track Agency operations and priorities on a monthly basis.

We recognize that government agencies need to become more efficient even while shouldering increased responsibility. Through careful analysis of its programs and operations, the Agency has demonstrated its ability to expand its services to America's small

businesses while reducing total expenditures. At the same time we have been cognizant of our responsibility to manage our expanding loan portfolio.

Two primary principles govern the SBA's loan portfolio management practices operational excellence and risk management. The size of the Agency's \$85 billion loan portfolio mandates that it be prudently managed to ensure that small businesses and disaster victims are served and that the taxpayer is protected from losses. Actions the SBA has already initiated in the area of operational excellence include the following:

- *Centralizing operations* In 2007 the SBA completed the centralization of all remaining 7(a) loan approval, and 504 and Disaster loan liquidation activities, resulting in streamlined financial assistance functions. Other benefits of this centralization include cost reductions resulting from specialization of activity by SBA staff, and greater consistency of policy interpretation and operational practices.
- *Operational assessments and Business Process Re-Engineering* The SBA is completing and expanding operational reviews and business process re-engineering activities of its loan operations centers to identify opportunities for streamlining and process improvements.
- *Accelerating the liquidation process* -- New 7(a) and 504 liquidation regulations require lenders to liquidate loans before submitting them to the SBA to honor the guarantee. The new regulations also position the Agency to resume an asset sale program for defaulted assets.

The Agency also places increased importance on risk management as part of the Agency's operational focus. Credit scores, combined with SBA lenders' current and historical performance, have allowed the Agency to assign risk ratings to lenders. Such ratings provide both an assessment and a monitoring tool for the most active SBA lenders, and are the primary basis by which lower volume lenders are evaluated.

In addition, the Office of Credit Risk Management improved SBA's lender portal to allow lenders to monitor their own portfolio performance and proactively address negative performance trends. This reduces the need for SBA action and potentially reduces loan program costs.

Thanks to its authority to collect fees for reviews and examinations from 7(a) lenders, the SBA increased its on-site lender reviews and examinations from 55 reviews in 2006 to 80 reviews in 2007 and plans to review over 200 in FY 2008. With the fee authority in place, the Agency expects to substantially increase the number of lenders reviewed and thereby reduce overall SBA portfolio risk. In FY 2009, the SBA will again increase the number of on-site lender reviews performed, with the objective of reviewing all large and mid-size lenders and Certified Development Companies on at least a bi-annual basis.

We are also expanding its monitoring and analysis of the disaster loan portfolio. This objective will be accomplished through the development of a system similar to the Agency's current 7(a) and 504 Loan/Lender Monitoring System. The Agency has begun the process to contract for this service, with full implementation planned before the end of FY 2009.

Modernization of our business loan system is a major Agency-wide undertaking that began in FY 2006, and which becomes more critical each year, as the agency's portfolio of direct and guaranteed loans continues to grow. The Agency has finalized the business vision, developed the business case, developed the project management plan, and drafted the acquisition strategy. For FY 2009 the SBA is requesting \$7.65 million in regular salaries and expenses funding for this initiative (to be complemented by a similar amount of disaster funding) for this project which will help SBA manage its loan portfolio. Considering the nature and complexity of the project and underlying uncertainties of the acquisition process, it is requested that the funds appropriated for the project in FY 2009 be available for two-years.

Outcomes Driven

To fulfill its mission, it is critical that the SBA understand how to drive outcomes aligned with that mission. The Agency is proud of its work on improving program performance through budget and performance integration which has allowed it to maintain the President's Management Agenda's (PMA) highest green rating in both status and progress since FY 2004.

The SBA has put heavy emphasis on clearly defining the outcomes that it is targeting and ensuring that its programs, processes and policies are aligned in achieving them. Results of the Urban Institute studies will help the Agency in adjusting its programs to improve their reach and value to America's entrepreneurs. They will also be used to establish an initial baseline for evaluating the outcomes achieved through SBA lending.

Conclusion

As you can see, it has been an eventful and productive 18 months since I first came to SBA, and the next year is shaping up to continue to build upon the advancements the Agency has already made. This is a good budget for America's small businesses, America's taxpayers and America's economy. I look forward to working with you to enact this budget and to help entrepreneurs start, build and grow their small businesses as they infuse new life into America's economy. Again, thank you for inviting me here today, and I will be glad to answer any questions.

COLOMBIA TRADE AGREEMENT

Mr. SERRANO. Fortunately, or unfortunately, you brought up the Colombia Trade Agreement. So let me just very briefly tell you what may be one of the problems. And there should not be—it is the rhetoric being used.

For instance, I am a big supporter of having a better relationship with Venezuela; and to have my President say that if you don't approve the Colombia Trade Agreement, you are aiding Venezuela in its desire to be a terrorist state of some kind, that is totally improper. That is not true, it is misleading, and that is not the way to get that trade agreement through.

There are other issues, obviously, environmental and labor unions, the fact that Colombia is a great ally and because it is a great ally we don't ask any questions about people missing in Colombia, people being killed on a regular basis in Colombia and all these other issues.

So those are many of the issues to come. But I know you consult with the administration and vice versa. I would hope you just tell them that to make it a national security issue was a terrible mistake, because it is a trade issue, and we trade with people who disagree with us. We trade with China, and China is a totally different system. And no matter how much we are concerned about Tibet, we are not going to get rid of our trade with China. We can all bet on that. And we deal with the Syrians, and we can talk for days about them. We now think that other countries are great countries. It is just the approach.

One last point on that when you advise the administration—and I am not being sarcastic. I know they talk to all of you folks. The President says the people in Latin America are watching and what we do on Colombia will let them know how much we care about them. In Spanish or in English, I can say this. They have been watching for the last 100 years, especially the last 40, but we have been totally indifferent about them. This trade doesn't make or break how they feel about us. It is the last 40 years of indifference. I appreciated your comment on Colombia. I understand that that is, in many ways, the party line. And I want you to, for the time you are here at the SBA, if another President decides that they want you in the administration, or in any capacity, that you just take a little message that one deal doesn't make a new relationship with Latin America. It is that they feel neglected.

We have been paying a lot of attention to the Middle East, rightfully so, to the Far East; and we spend a lot of time worrying about the Russians and the Soviets and so on. But Latin America has been forgotten. So now when they get leaders we don't like, we wonder why. None of those leaders in Latin America are an accident. Whether you like them or not, they are all the result of 200 years of suffering. That is why Bolivia elected its first indigenous person. And instead of embracing him, we are worried that he may take over the gas production and do something as revolutionary as saying maybe some of that money should stay in my country and not leave the country.

NEW SMALL BUSINESS LAWS

Legislation that has been recently enacted affecting the 7(a) loan program and the small business development center program, such as in the areas of veteran-owned small businesses and small business energy efficiency. These new laws as well as other proposals that are being considered by Congress will place increased funding requirements on these programs. Does the President's budget request reflect the increased cost associated with newly enacted laws? Can Congress expect a budget amendment from the administration that allocates funding to implement these laws?

Mr. PRESTON. I think the President's budget and certainly our submission of the budget preceded the energy bill and then the veterans' bill passing; and, obviously, those two bills both had additional funding requirements both for technical assistance and for 7(a) loan subsidy payments. So this budget does not reflect that.

In the course of this year, obviously, as we work with this budget, we are going to have to talk with you all and work with our colleagues in the administration, to determine how to address those issues. But that funding is not in the budget request right now. I know that we have been working with your staff to give them a sense of the cost but we have estimates and we can provide those to you so that we understand, if we do go forward, what would be required in terms of the costs.

Mr. SERRANO. So the possibility exists of coming to us for additional funding?

Mr. PRESTON. I think the possibility exists. I think, in the case of the technical assistance requirements, there is probably a lot of latitude to scope it, especially since it is structured sort of as a pilot.

On the subsidies side, I think it is going to require us to be much more open-ended. Because, effectively, if you say we are going to give you a break if you are a veteran or we are going to give you a break if you are doing energy loans, it is going to be dependent upon the volume that comes in the door. So we have to scope that volume.

On the technical assistance side, I think it is a little bit easier to say we are going to get X amount of money that is going to be available for these programs and then design the program around the funding level.

Mr. SERRANO. How close are you on an estimate of what you may need?

Mr. PRESTON. I think we are pretty close. I think on the veterans' side, we would expect something in the \$10 million to \$15 million range per year; and that depends upon volume.

Mr. SERRANO. \$10 million to \$15 million?

Mr. PRESTON. Sort of in that range. It would be much smaller on the energy side. But that is very difficult for us to gauge, because we don't track what loans are for energy efficiency now.

We do track veterans loans. So we know how many are going to veterans now; and we assume, if we gave them a break that would grow because more people would be interested. A lot of our loans we don't necessarily think people are actually identifying themselves as veterans, even if they are. So that is a little bit easier for

us to do. I don't think, personally, that the energy loan costs would be as great as the veterans, because veterans receive almost \$1 billion in loans through our programs today.

I think on the technical assistance side it is more up to us as the Federal Government in conjunction with the industry to say, how big should this be? Do we want to allocate \$5 million for these special veterans and energy programs? Do we want it to be 10? Do we want it to be 3? And what we can do with you all is to say, look, if we size it at 5, for example, we think it can reach this many centers and this many people. And that is kind of how I think we should engage it with you all.

HURRICANE KATRINA DISASTER LOANS

Mr. SERRANO. Disaster loans. Two and a half years after Katrina, can you describe at what point in the recovery phase SBA now finds itself? Are loans still being made? Are most loans entering into the repayment phase? Is this the time when we will begin to see defaults on loans and reports of abuses of the program coming up?

And last year in our hearing you said that the default rate estimated for loans was modeled after Hurricane Andrew, that you expected Katrina to be better due to the unprecedented level of Federal aid into the area. Do you still believe that to be the case?

I know I gave you a few questions there at once.

Mr. PRESTON. We are well past the point where we are approving loans in Katrina and really pretty much well past the point where we are actually disbursing loans. But we will give you the exact numbers for the record.

[The information follows:]

Question. Are Katrina Loans still being made?

Answer. No. However, SBA will continue to consider new loan requests if the late filing results from substantial causes essentially beyond the applicants control. Disbursement of loans is 97 percent complete. The few loans still only partially disbursed are waiting for permits, contractors or other outside factors.

Question. Are loans entering the repayment phase?

Answer. Of the nearly 120,000 net approvals, all but approximately 3,700 loans are fully disbursed and are in the full repayment phase of their loan. Furthermore, most of the 3,700 partially disbursed loans also have entered a repayment phase.

Question. Have we begun seeing any defaults?

Answer. Yes, of the 119,802 Katrina disaster loans that have been approved, 4,960 loans have gone into default and have been sent to the Treasury Department for collection pursuant to the Debt Collection Improvement Act of 1996.

Mr. PRESTON. But just off the top of my head, we have over \$6 billion that we have disbursed in the Gulf. There are probably a few hundred million in available disbursements. And what I mean by that is people that have a loan commitment from us who are in the process of rebuilding their home but they just haven't asked us for all the money yet because they might be partially through the rebuilding or—and this is a unique situation in Katrina—people who even 2 and a half years after the storm still don't know what they are going to do. And there are those people where we have said, look, we will continue to let you have this commitment even though you haven't asked for the funds yet if you show us a reason for that.

So we still show committed funds that are undisbursed, but it is very much in the hands of the borrower to get that money. But,

by and large, the money is out the door. It is in people's hands. It has either gone to rebuilding homes and businesses or is in that process today.

I don't recall exactly what I said last year, but Hurricane Andrew and any number of other disasters would have been instructive in our estimating repayments. We wouldn't have just looked at Andrew. We would have looked at a much broader experience. It is a little early for us to look at delinquency trends. Part of the reason for that is, even though the storm is 2 and a half years ago, a lot of people didn't get their money until recently. So they are just now going into the process, many of them, where they are actually servicing the loan. So there is a big lag effect.

So it is premature for us to get a sense for if there would be significantly different delinquencies in this disaster relative to the other disasters and what that means for our subsidy estimates. But we would be happy to keep you all apprised of that along the way.

Mr. SERRANO. Please do.

I know this is maybe a difficult question. What was the biggest complaint that you heard or that SBA got?

Mr. PRESTON. There were—

Mr. SERRANO. If you had to look at it and say, next time, heaven forbid this happens, here's what we need to do different, what was your biggest complaint?

Mr. PRESTON. Number one, it took way too long to get responses. So if I submitted my loan applications, it took a very, very long time to hear from you.

And then we heard some secondary issues like, we have sent in our documentation and you have lost it. We have to send it in again. We call your call center. We have called two times. They have given us different answers in terms of the status of the loans.

So there was a lot of confusion out there. And if we have time and you would like to, I can take you through what we have done to address all those issues. But I can speak with full confidence that we have entirely redesigned how we make disaster loans and how we support people through that process, very much instructed by what we learned in Katrina.

So I think we have a better disaster operation than we have ever had, and I think we are much more capable of not only effectively handling what we see today but a much larger disaster.

Mr. SERRANO. Well, I appreciate the fact that, unlike other folks who come before us, when I ask you what are people complaining about you didn't say "well, we are the greatest, nobody complains about us."

So you don't have to take us through it, but I would appreciate it if you could supply the committee what steps have been taken to remedy that.

Mr. PRESTON. Sure.

[The information follows:]

Summary of Operations Improvements to the Disaster Loan Process**1) Additional Surge Space**

The Agency has secured over 280,000 sq. ft. of space in multiple locations across the country with 150,000 sq. ft. specifically allocated as permanent space for the Processing and Disbursement Center in Fort Worth, TX. This will provide space to handle any initial surge requirements while allowing time for the Agency to work with GSA in obtaining any necessary additional space.

2) Reserves

SBA's Disaster Assistance capability expands and contracts in size based on the level of disaster activity. Prior to the Gulf Coast Hurricanes, SBA had about 800 employees on the payroll but quickly surged to over 4,300 employees in response to these unprecedented storms. Today, SBA's Disaster Loan Program has roughly 1,000 employees across all key functions. Recognizing the benefits and effectiveness of the ability to immediately supplement its workforce, the Agency expanded its Disaster Active Reserve Corps. Currently, SBA has selected approximately 2,100 employees in this expansion and continues to add personnel to the Active Reserve Corps. This capability allows the Agency to activate this specialized group of trained personnel to report for duty within 48 hours. The number of trained employees on board and in the Active Reserve Corps increases the Agency's capacity to quickly respond to disasters, including catastrophic events. Additionally, SBA has a Ready Reserve Corp that consists of approximately 2,100 former disaster employees that could be contacted to return to work.

3) SBA non disaster employees training

During the Gulf Coast Hurricanes response, the Agency utilized SBA's nationwide District Office infrastructure to handle increased disaster activity. Additionally, the Agency has implemented an initiative to utilize District employees in future disasters in such activities as processing support and coordinating local resources through SBDCs, Chambers of Commerce, and other local professional and charitable organizations to improve outreach and accelerate response in the field. In 2007, we provided surge training for approximately 475 non-ODA SBA employees which focused on DCMS and Home Loan processing.

4) Enhanced DCMS capacity

To accommodate a larger workforce to process loans, SBA has expanded the capacity of the Disaster Credit Management System (DCMS). The most recent test (March 2008) shows that the DCMS has support capability of up to 12,000 concurrent users. This expansion represents a four-fold increase in capacity over peak usage during the 2005 Gulf Coast Hurricanes. The system also enables users to work remotely, thus expanding the geographic alternatives for recruiting the workforce.

5) Forecasting/Scalability Model

The Agency now possesses the capability to determine resource needs – financial, human capital (by function), and logistics – required to maximize SBA’s response against a number of different application volume scenarios. The Agency is refining detailed action plans to determine the appropriate resource needs outlined in each scenario and to establish protocols for action to respond accordingly. To prepare for future disasters, the Agency has obtained and implemented FEMA’s HAZUS software product into its disaster response planning. The software is being used to provide additional information – such as estimated losses, regional demographic information, and community infrastructure information – which is crucial to the Agency to better gauge the resources needed in each scenario, initially and throughout a disaster response period. By using this information in conjunction with the risk monitoring procedures, SBA will be able to craft a scenario-specific, accurate response. Recognizing the continued benefits of forecasting, SBA is reviewing external disaster models to determine how best to link the expected scope of potential disasters with our preparedness estimates. Further, external models will provide SBA with information on a greater variety of disasters, and with crucial additional information (such as levels of insurance coverage) that is not available elsewhere.

6) ACE and Account Improvements

Since August of 2006, ODA has engaged in a comprehensive reengineering of the processes, tools and policies that directly impact disaster victims' experience with SBA and the ability of SBA loan processing employees to provide customer-focused service.

The Accelerated Disaster Response initiative (ADRI) focuses on improving the disaster victim’s end-to-end experience from disaster loan application, through approval and closing, to final disbursement of funds. The driving principles behind ADRI are speed of response, customer support and quality.

The ADRI was focused on deploying a series of near-term (2007) and longer-term (2008) improvements. These improvements, spanning across five key success factors, were addressed by eight cross-functional reengineering teams operating with the mandate to design, test and implement solutions as quickly as possible. The eight Rapid Action Teams have collectively launched and completed a total of 164 Action Projects.

Mr. SERRANO. We are running against the clock here, no fault of anyone here, because we have votes coming up soon. So I will hold the rest of my questions for now and turn to Mr. Regula.

DEMAND FOR SMALL BUSINESS LOANS

Mr. REGULA. Thank you, Mr. Chairman. I will submit most of mine for the record.

We are allegedly in a bit of recession. Has demand gone up for small business loans?

Mr. PRESTON. No. Demand has gone down. And we have talked with literally hundreds of bankers, and I personally have spoken with dozens of them personally.

We are seeing a couple things, sir. I think we all know that there was a pretty significant appetite for risk in the lending community. We saw it on the mortgage side. We saw it on the business side. So we are seeing banks pull back some on the much riskier loans that they were doing. But almost all the banks we are talking to are telling us that they are seeing less demand for credit.

If you look at surveys of small businesses out there, what you see is small businesses saying they are less likely to expand right now, they are less likely to hire, they are less likely to invest than they were a year or two ago; and those are the things that typically drive the need for capital.

I think the other thing that is happening is we are seeing less acquisitions of businesses, and that also is a driver of capital need. So that is what we have been seeing.

There is also among some institutions a tightening of credit standards.

RATE OF DEFAULTS

Mr. REGULA. What is your rate of default? How does it compare to conventional financial institutions?

Mr. PRESTON. I would have to get you that.
[The information follows:]

Table 2. Delinquency amounts and counts, 504 CDC and 7(a) loans:

Delinquencies by Fiscal Year and Month	504 CDC		7(a)	
	Delinquent count	Delinquent amount	Delinquent count	Delinquent amount
FY 2006	Oct	\$182,240,441	4,027	\$449,803,769
	Nov	\$199,973,058	4,670	\$565,799,300
	Dec	\$203,508,922	4,808	\$596,790,814
	Jan	\$211,157,120	5,022	\$641,455,142
	Feb	\$210,914,062	4,135	\$481,274,985
	Mar	\$195,578,457	3,983	\$443,018,184
	Apr	\$210,411,602	4,203	\$473,480,707
	May	\$225,887,392	3,832	\$444,592,384
	Jun	\$208,925,438	4,032	\$464,155,547
	Jul	\$235,381,356	4,161	\$460,097,682
	Aug	\$236,853,334	5,200	\$644,070,211
	Sep	\$251,229,909	4,695	\$516,903,383
FY 2007	Oct	\$234,019,921	4,803	\$529,167,604
	Nov	\$252,433,868	5,389	\$615,672,988
	Dec	\$269,144,194	5,976	\$673,268,668
	Jan	\$267,761,962	7,129	\$875,758,785
	Feb	\$288,781,874	6,274	\$693,625,191
	Mar	\$282,114,686	6,067	\$663,407,654
	Apr	\$281,500,697	6,208	\$680,931,626
	May	\$274,772,513	6,456	\$692,423,273
	Jun	\$291,415,676	6,850	\$710,531,339
	Jul	\$303,371,994	7,429	\$761,041,900
	Aug	\$310,459,887	8,719	\$997,400,844
	Sep	\$341,949,768	7,541	\$782,562,962
FY 2008	Oct	\$344,647,668	7,559	\$805,671,591
	Nov	\$391,698,058	8,485	\$964,106,751
	Dec	\$416,224,036	9,249	\$1,076,199,855
	Jan	\$427,853,278	9,714	\$1,262,270,050
	Feb	\$430,588,862	8,807	\$1,088,046,500

Table 1. Purchase amounts and counts, 504 CDC and 7(a) loans:

Purchases by Fiscal Year and Month	504 CDC		7(a)	
	Purchase count	Purchase amount	Purchase count	Purchase amount
FY 2006	Oct	\$10,322,111	695	\$49,925,969
	Nov	\$8,892,210	689	\$37,459,885
	Dec	\$11,805,556	654	\$55,790,024
	Jan	\$11,244,287	681	\$56,457,639
	Feb	\$3,635,224	656	\$59,284,645
	Mar	\$10,118,799	955	\$64,107,402
	Apr	\$10,620,725	876	\$51,058,990
	May	\$9,845,052	945	\$64,127,945
	Jun	\$7,115,588	1,017	\$72,483,254
	Jul	\$10,089,527	692	\$45,389,354
	Aug	\$12,548,554	1,045	\$67,548,081
	Sep	\$7,530,733	758	\$43,676,296
FY 2007	Oct	\$13,253,362	657	\$45,288,700
	Nov	\$14,439,427	615	\$42,391,117
	Dec	\$9,348,195	533	\$45,500,097
	Jan	\$8,090,588	702	\$41,503,989
	Feb	\$10,060,739	847	\$53,507,570
	Mar	\$12,965,945	1,078	\$52,880,758
	Apr	\$18,798,621	1,036	\$48,219,063
	May	\$20,528,896	880	\$48,523,941
	Jun	\$11,954,847	910	\$52,061,807
	Jul	\$16,776,684	962	\$53,950,249
	Aug	\$23,183,604	1,084	\$64,983,543
	Sep	\$10,636,524	1,574	\$86,603,491
FY 2008	Oct	\$13,298,334	1,322	\$84,190,199
	Nov	\$16,960,619	1,170	\$57,841,317
	Dec	\$15,878,528	1,280	\$86,856,284
	Jan	\$19,798,074	1,249	\$101,747,031
	Feb	\$25,136,362	1,308	\$68,273,515
Mar	\$16,831,143	1,777	\$110,835,229	

Mr. PRESTON. Our rate of defaults, there are a lot of different ways to cut this, but, effectively, if you look at the life of a loan, the amount of money we lose on a typical guarantee would be in the 3 to 3.5 percent range. And that is what our fees cover. We are a zero subsidy program. We have seen delinquencies trending up.

Mr. REGULA. That is not too far off of conventional financing.

Mr. PRESTON. My staff is instructing me we are about twice the industry average, which makes sense.

Mr. REGULA. You get the tough ones.

Mr. PRESTON. We get the tough ones, and that is what our fees cover.

Mr. REGULA. And that is as it should be, in a sense, because it gives people who might not otherwise get the credit they need to start a business. It could grow. And you do take a higher degree of risk.

Mr. PRESTON. If you look at our loans and you look at sort of the credit quality of the private sector, we kind of pick up the lower end and go a little bit beyond that. And then they also often use us for deals where there might not be quite as much equity or they might need to go out to 10 years rather than 5. So we help them reach a little bit further.

VETERANS' PROGRAMS

Mr. REGULA. Do you have veterans' preferences? In other words, do veterans get a break on loan applications for small business?

Mr. PRESTON. We have a couple of veterans' programs.

In our bank lending programs, they do not get a fee preference. But Mr. Serrano was asking about a recent piece of legislation that would provide them with a fee preference. Right now, it is an unfunded thing. We do have a program that provides a heavily subsidized low interest loan to small businesses that have been impacted by reservists getting called up for Active Duty, and they can get a 4 percent loan from us. They are effectively looking at that as being—it is a disaster loan, is what it is considered. And so if you own a business and you are a reservist or you are a significant member of the business and you get called up and you have an impact from that, you can come directly to us.

EMPLOYEE RETENTION

Mr. REGULA. I understand that 34 percent of your staff will be eligible to retire in fiscal 2009. That is going to be a big hit for qualified people. Are you working to attract people? Because staff makes all the difference in the world.

Mr. PRESTON. You are absolutely right. What I would tell you is 34 percent aren't going to retire. A lot of our people stay well past their eligibility. But, absolutely. We are, in the last year and a half, actually, the last year, we have dramatically stepped up our training efforts to bring people up to a higher competency level. We have rolled out an entire process where we are putting people on career development plans, and we know where those people are. So we know where the potential impact is. It is absolutely an issue that we understand, that we are trying to address.

The flip side of that is many of the challenges we have had with our employee base is a lot of them have felt that the promotion op-

portunities haven't been there because a lot have been at their jobs for a long time. So we are looking forward to making this a promotion opportunity for people if that top layer begins to retire.

Mr. REGULA. Thank you, Mr. Chairman.

In the interest of time, I will submit the rest of mine for the record.

Mr. SERRANO. Thank you.

Mr. Cramer.

Mr. CRAMER. Thank you, Mr. Chairman and Ranking Member. I want to jump in, too, because time is short here.

I appreciated your response to the disaster loan response system after Katrina. So I, too, would be looking forward to any information that you can supply us with.

You made reference to a redesigned process. I assume by that you mean because of the experiences you had with that process—

Mr. PRESTON. Yes.

Mr. CRAMER [continuing]. You have redesigned it since that time.

Mr. PRESTON. That is correct.

Mr. CRAMER. But I also would like know what your problems were during that process and who got money and what the process was like there.

Mr. PRESTON. Okay.

SMALL BUSINESS INNOVATION RESEARCH FUND

Mr. CRAMER. But I want to shift to the Small Business Innovation Research Fund. In my district, when I have my targeted meetings with my small business community, SBIR comes up regularly. In North Alabama, we have a lot of folks that live off of aerospace and defense contracts. We have a lot of innovative engineers and scientists in our area that are doing very valuable things and use that program. But you had a cap for the program, phase one and phase two, phase one at \$100,000 and phase two a cap of \$750,000. I would like to know, how long have those caps been in place?

Mr. PRESTON. I don't recall. It is a long time, and we are working right now on increasing them.

Mr. CRAMER. Good. I would encourage you to do that, because I don't think that has been adjusted for some time.

And what other programs, or is there the opportunity to be more innovative with the SBIR funding so that you could encourage small businesses in innovative research like that? Or do you have other programs I am maybe not aware of?

Mr. PRESTON. The SBIR program effectively requires anybody with a large research budget to designate 2½ percent to small businesses. So it is a great opportunity for us to support small innovators. And there are great innovators. We do have programs that help them with training, with technical assistance.

I think it is also important to note that even though that program effectively designates 2½ percent of the Federal budget to go to small businesses, many more small businesses avail themselves of research grants. I can get the exact number, but I believe it is roughly 7 percent of the research budget. So there is a lot more funding going to those companies than just comes through SBIR.

Mr. CRAMER. Thank you.

Mr. SERRANO. Mr. Bonner.

DISASTER LOAN PROGRAM REDESIGN

Mr. BONNER. Thank you, Mr. Chairman.

Mr. Administrator, 14 feet of water in downtown Mobile, my hometown, communities like Coden and towns like Dauphin Island and Bayou La Batre that truly felt they had seen and experienced a tsunami. So when we talk about Katrina, even though New Orleans and the Mississippi Coast received the brunt of the storm, we certainly had our share of it in coastal Alabama as well.

Shortly after the storm, I think it is safe to say, the SBA program that you inherited when you came on the job was pretty much in a disaster. However, within months of your leadership, you helped to turn the program around.

Mr. PRESTON. Thank you.

Mr. BONNER. And at least from our experience I want to say thank you for doing that.

Mr. PRESTON. Thank you very much.

Mr. BONNER. You touched briefly on the issue in your testimony. Can you tell us a little bit more about how you accomplished some of your goals of revamping the program and specifically how SBA is now better prepared to deal with this in the case of a future catastrophe? And could you also tell us a little bit about your \$160 million request for the administration of a disaster program that would improve the abilities to submit electronic loan applications, which was mentioned in your written testimony?

Mr. PRESTON. Real quickly, one of the important things is for people at the front end to have their applications expedited quickly for quick decisionmaking. Right now, people are sending in a packet of information. The electronic loan request would allow people to submit that through a Web site.

Not only is it easier for the borrower, it is a lot easier for paper flow. Things don't get lost. You don't have people doing reentry errors. And we don't think of those as being impediments, but when you have a large disaster and you have mistakes, these are huge time savers and ultimately result in huge benefits to the borrower.

Let me just give you a couple of concepts around what we did, and I will try to keep it brief. A couple of things. We had a process where effectively a loan would go down the production line, and it would go from an input clerk to a loan officer to several people doing different things. And if there were errors or problems along the way, ultimately, those wouldn't always get caught until the back end, and then they would have to go into a queue to get fixed and modified. Our attorneys and our legal people and our financial people didn't always coordinate as well as they needed to. And the other thing we found is, because we had recently consolidated four centers, people weren't always working off the same rule books.

So we made all of our policies consistent. We blew up the production line. We put people in what we call integrated teams. So they have got lawyers, finance people, clerks, case managers all working together on one team. So when your loan comes to me, if I am a loan officer, I turn to my lawyer over here, I turn to my other experts over here, we get all the problems taken care of quickly. We can make a decision on the spot.

The other thing we did is, if you were a borrower, you didn't have a human being to help you through the process. You called a call center and you sent documents back and forth. We now assign people a human being who calls you up and says, I am here to help you. Tell me what you need. Let me talk through your paperwork with you. And it allows our front-end people to be an advocate for the borrower. They know if they have a closing coming up, so they will do everything to resolve their closing.

It also allows our front-end people to hear about the problems we are having and then tell the rest of the organization, which we gather data. We gather data now on every single customer, and we can turn that into fixing the process.

And let me give you one example, and I can apply and do some of this in writing.

But we called 100,000 people to ask them why they hadn't gotten their SBA loan, in their mind. Were they waiting for us or were we waiting for them? We found people couldn't get their title documents. Everything was backed up in New Orleans. We sent 15 people to the Parish Clerk's Office in Orleans Parish to help them get through their workload to help borrowers when they came in the door to get their paperwork so we could get our work done. It wasn't our problem, but we wanted to help them through that process.

We would have never had that if we hadn't started getting data from customers out of the system, calling them up, and learning from them how we needed to help them better.

So one of the things I am proudest of is we have turned our people from paper processors to advocates for people who are disaster victims. And not only in helping them get what they needed done but helping us understand how to serve them better.

Mr. BONNER. Again, it is that type of proactive leadership. You came on the job I think a year after Katrina, basically, but you turned it around.

Mr. PRESTON. Thank you. I appreciate that.

Mr. BONNER. And if I could get a quick second question in.

FOREIGN INVESTMENT

Representing a port city in a State that the Port of Mobile is now the tenth largest port in America—and I don't want to go back to the trade agreement that you and the chairman have already mentioned specifically, but just in general we talk about outsourcing jobs, about insourcing jobs. How important, in your judgment, is the insourcing of jobs, especially as it relates to small businesses and opportunities for small businesses?

My understanding is that there are about 5 million direct U.S. jobs that are a result of foreign investment in this country and probably another 5 million indirect. Can you see a benefit to small business, Main Street America, to this because of the foreign investment?

Mr. PRESTON. I absolutely can, and I think there are two ways. First of all, I think a lot of times we look at either small business exports or small business direct contracts, but we often forget that, when there is foreign investment, the amount of follow-on in ancillary business that flows from big business to all sorts of sur-

rounding small businesses, logistics, components manufacturers, other service providers. We don't have an insulated economy. We have a very much integrated economy that goes up and down sort of the business sides.

The other thing is often when we open up foreign markets, and this may be a little bit beyond your question, the little guys are the ones that have the harder time exporting because they can't put people in the country that they are exporting to necessarily. They don't always have the funds to figure out the regulations. All of the administrative barriers, is what makes it very tough for them. And simplifying the trade pathway for them is a big factor in opening up the floodgates, and I hear this time and again. I heard it from an exporter on Monday when I was in Miami. He went through chapter and verse what he had to deal with in going to a particular country, and he said it is just not worth it in certain countries because I just can't handle all the stuff.

It is not just the tariffs. It is all the other stuff. And that is why I think this often isn't couched as a small business issue, but I think it very much is.

Mr. BONNER. Thank you, Mr. Chairman.

Mr. SERRANO. Mr. Goode.

HUBZONES

Mr. GOODE. I want to say thank you for your personnel in the Richmond office. Ron Bew has worked very well with my office on a number of things.

Mr. PRESTON. Good. Thank you.

Mr. GOODE. They have held some forums to assist veterans, minorities, and others as to what the SBA has to offer. So I just want to say thank you for that, and then I wanted to ask you a little bit about hub zones.

The largest city in my district is Danville, which is slightly under 50,000 now. Adjacent to it is the largest county in Virginia, which is rural, which is Pennsylvania; and it gets knocked out of being a HUBZone because it is adjacent to Danville. I have introduced a bill that would cover Pennsylvania County and a number of other jurisdictions around the country that are situated like that, and I am just wondering if you all have a position on that or are you neutral?

Mr. PRESTON. I apologize. I am not briefed on your bill. I will tell you that, in many cases, because of a mix in a county between sort of what is rural and what is not considered rural, we do get into some challenges in getting certain areas designated as a HUBZone when they might otherwise qualify. So I would love to take a look at what you are proposing and work with your staff.

Mr. GOODE. I will tell you the number of it is 383.

Mr. PRESTON. Okay. Thank you. We will be in contact with your staff.

Mr. GOODE. And that is a situation with Pennsylvania and the area close to Danville, is urban. But, like I say, it is the largest county in Virginia, and the rest of it is really rural, and if they could get hub zone status, it would help us keep the few businesses we have got in that rural part and might let us get a few more.

Mr. PRESTON. Thank you.

Mr. GOODE. Thank you. That is all, Mr. Chairman.

PRIME PROGRAM

Mr. SERRANO. Thank you.

The PRIME program is once again proposed by the President for elimination. As you know, elimination of the program troubles this committee, especially this chairman, greatly, because it targets low-income and very low-income business people with much-needed training and technical assistance. Now it would seem that if the economy is hurting more and more, and you have been very open here in telling us that some people are not investing, they are nervous, that this would be the time of an even greater need for a program like this one. Why does the administration dislike this program so much? Why do they think it should not exist?

Mr. PRESTON. Mr. Chairman, I think it is more an issue of, in a time of tight budgets, we are trying to consolidate our technical assistance, spending in a handful of large programs and leverage them as effectively as possible.

When you look at the micro loan program or you look at the technical assistance there or you look at the prime funding, I think we are taking the position in both cases that we would like those people to seek their technical assistance from places where we are getting a lot more leverage. And these are networks where we provide seed funding—I shouldn't say "seed"—foundational funding to where they expand their funding through other sources, State and other sources, rather than having a broader network of small programs.

Mr. SERRANO. So your comment would lead us to believe, or that you believe, the administration believes, that these are similar programs. Yet it has a constituency—I don't think just a constituency that says don't cut anything but, rather, people that feel that this program has a specific mission.

Is it the belief of folks in the agency that whatever support is being given by the PRIME program could fit into other programs? Is that what the suggestion has been?

Mr. PRESTON. I think the answer is yes. And if you look at our spectrum of programs out there, they do cover a lot of different types of businesses. Many of them are businesses that are home-based businesses, people that are going from very low-income levels to something that can sustain them a little more effectively, all the way to businesses that are high tech and have a great growth opportunity to them.

MICRO LOAN PROGRAMS

Mr. SERRANO. Now maybe I am missing something here, and I am not trying to be funny. But, for instance, my next question had to do with the micro loan technical assistance program, where also the administration wants to eliminate it. So, on one hand, you are telling me that we have programs that this can fit into. Yet we continue to try to eliminate some of those other programs that perhaps it could fit into. How do we explain that?

Mr. PRESTON. Well, the three big programs we have are the Small Business Development Centers, Women's Business Centers, and SCORE. And that is where we support over one million entre-

preneurs a year. The micro loan program, for example, I think we had a little over, I think it was, 2,200 new micro borrowers come into the program last year. So we have got somewhat over 2,000 going into a network that supports one million. So the scale of these other systems is very significant relative to the number of people that are being counseled in the smaller programs. I don't, off the top of my head, know what that number would be for PRIME.

Mr. SERRANO. Now, also on the micro loan issue, the President's 2009 budget also proposes zeroing out the Federal subsidy for the micro loan program. The budget suggests doing this by increasing the cost of the SBA loans to non-profit lending intermediaries. Won't this change make the program more costly, with the costs being passed on to small business borrowers?

Mr. PRESTON. It will make the program more costly for the borrower, potentially. I think the difference is, because it is a heavily subsidized program, it is relatively limited. Every dollar that we put out there in a new business comes with an 88 cent cost, 88 cents for technical assistance and for subsidy. Our view has been if we can make this a zero subsidy program we no longer limit our ability to put capital into the micro lending industry. We can go much bigger if we can make it a zero subsidy program. We can get a lot more dollars to micro borrowers.

Now there is no doubt that the cost of those funds to the borrowers is going to be somewhat higher, but there would be a lot more funds available and at already what I think would be a low cost because it would be somewhat over a point over the Treasury rate.

SUBSIDIES

Mr. SERRANO. That seems to be the ongoing argument here. As you know, in the 7(a) program there is the same thing, where the administration or the agency seems to feel that, without the subsidy, you can actually do some other things. And yet subsidies are very popular with the Members of Congress, especially that subsidy. And that is one, as the ranking member can tell you, that if we don't provide it, I can guarantee you an amendment will put it in the bill on the House floor. That is not one where Mr. Regula and I can talk to folks and say don't do this.

Mr. PRESTON. Sure.

Mr. SERRANO. If you were trying to analyze why this happens, if indeed the subsidies are not necessary in some cases or in many cases, why does it have such a constituency with Members of Congress from all over the Nation?

Mr. PRESTON. You know—

Mr. SERRANO. And, again, it can't be simply don't cut a program, because there are many Members of Congress who are very much into the idea of cutting, yet they don't want to cut the subsidies.

Mr. PRESTON. On the subsidies side, if we are talking about the micro loan program, there is no doubt that there is a network of micro lenders out there today that we currently fund that reach businesses and that will have to go through a time of difficult transition if we pull back their technical assistance funding and increase their cost of funds. I don't want to conjecture in terms of

what they have to do, but—and especially if our funds are going to pay for operating costs.

But to the extent that our funds go for technical assistance, they are going to have to begin referring those people to somewhere else, and I think they are also going to have to look for transactions that can support a somewhat higher cost to capital or reduce their spreads.

On the 7(a) side, which is a zero subsidy program, historically when we have talked about providing a subsidy for this program, just to put it in simple terms, as I view it we are looking at reducing the cost effectively to the borrower by taking a point or a point and a half off the upfront cost. It is almost like mortgage points. So if you said, instead of paying 2 and a half points they are going to pay 1 and a half points, that is effectively how we would change the cost structure, by providing a subsidy.

When we run the numbers on an average SBA loan that is less than \$1 a day. It is not that big of a cost to the borrower. And you also have to ask yourself, if another point or point and a half is the difference between taking a loan and not taking a loan, you are either—I get concerned that if that is what it takes to be able to pay for a loan, you are dealing with a pretty marginal borrower.

So I view that as less of inflicting a pain point on anyone. I do acknowledge the pain point on the micro loan program, because I think the people we fund are going to have to go through a challenging transition.

Mr. SERRANO. Thank you.

Mr. Regula.

ENCOURAGING EXPORTING

Mr. REGULA. Just one question. We are facing as a nation a \$711 billion trade deficit. Do you make any special effort to help companies that indicate they are in the field of exporting—

Mr. PRESTON. Yes.

Mr. REGULA [continuing]. That would be helpful in reducing the trade deficit?

Mr. PRESTON. Yes. And we are stepping it up. There are a number of things.

First of all, our partners in the Small Business Development Center community and some of our other technical assistance partners provide support to businesses that are interested in exporting, kind of helping them think through how to do that.

We work together with the Department of Commerce also in a number of places around the country called U.S. Export Assistance Centers, where people can come into those centers and get a lot of information about how to export to a particular country. And then, once those goods—if they want to have support in country, we coordinate with the Department of Commerce doing that as well.

We provide working capital loans that allow people to, if they need to, if a small jam manufacturer needs to build its inventory to export, we will finance that. We will actually finance the actual export, and we will coordinate with exit banks on their programs.

The last thing I would mention is we are kicking off a series of trade symposia around the country to bring small business exporters and potential exporters together to help them learn how to do

this more effectively. And I mentioned earlier we just had 400 people in the Miami area on Monday, and it was just a terrific success.

So it is an important thing for our constituents, and we are working to expand our support for them.

Mr. SERRANO. Mr. Goode.

Mr. GOODE. I don't have any more questions. Thank you.

Mr. SERRANO. Mr. Preston, I want to pay you a compliment in public. When we thought we had votes at 10:30, we had decided to end the hearing at 10:30, rather than keeping you here, because your agency has a reputation and you personally of telling the committee what it needs to know when we are not doing it in public. Some folks have to be asked in public. It is the only way we might get part of what we need to know. So consider that a compliment.

Mr. PRESTON. Thank you very much.

Mr. SERRANO. And we appreciate your service to our country. We appreciate the work you do. We appreciate your willingness to work with us even during difficult times. And this coming year, this budget session could be a difficult one. We won't hold you here any longer. Just please keep us informed on some of those issues we presented to you before.

Mr. PRESTON. Thank you very much.

Mr. SERRANO. The hearing is adjourned.

**Questions for the Record
Submitted by Chairman José E. Serrano**

1. Contractor employees

Please provide a list of how many contractor employees have worked within each program office with SBA for fiscal years 2006 through 2008.

RESPONSE:

FY 06: 484 full time and 18 part-time

FY 07: 333 full time and 15 part-time

FY 08: 405 full time and 17 part-time

Excludes services type contracts - for example the IBM Hosting contracts where the company provides services via several employees. The actual number of Contractor employees designated "full time" fluctuated throughout each year. The number reported reflects the total number of contractor employees that worked within each office during the specified period but does not mean that each worked the full year.

How much did the SBA spend on contractor employees in fiscal year 2007? Please include contract support/administrative costs in addition to direct contract costs.

RESPONSE: SBA spent \$30,580,707 on contractor employees in fiscal year 2007.

How many contractor employees currently work in space alongside of, and perform similar functions as, regular civil service employees of SBA?

RESPONSE: 188 contract employees work in space along side of federal employees and perform work similar to civil service employees. Contractors do not perform managerial work or work determined to be inherently governmental.

What steps has SBA taken to ensure that contractor employees follow ethical standards that are at least as strong as the standards and laws that govern Federal employee conduct?

RESPONSE: Like Federal employees, all contractors must take ethics, computer security, and other training. A Minimum Background Investigation (MBI) is done for contractor personnel who are expected to be on-board for more than a couple of months. Contractor employees are cleared through the OIG security clearance process similar to any federal employee prior to contract staff being given access to Agency computers (second level clearance through OCIO) and electronic records management. SBA determined the necessary contract provisions to require contractor conduct conform to Federal rules & regulations. SBA services center and headquarters management monitors the contract staff through the local contract site supervisor - issues are addressed and brought forward to the management of the contractor (and SBA Contracting Officer if necessary).

2. Competitive contracting

For fiscal year 2007, did SBA enter into contracts that were not fully and openly competed? If so, what were the reasons for entering into such contracts? What is the total amount of money spent on such contracts?

RESPONSE: SBA entered into 67 contracts totaling \$22,063,999 that were not fully and openly competed. Of these, 18 (27%) were awarded without competition to achieve the Agency's socio-economic goals, e.g., 8(a), service-disabled veterans; 22 (33%) were non-competitive follow-on delivery orders, and; 27 (40%) were sole source awards for specialized support services, e.g., copier leases, copier maintenance, telecommunication services, and strategic sourcing initiatives.

Were there contracts entered into during 2007 that were open to a competitive process but where there was only one respondent (the eventual awardee) to the solicitation? If so, please provide a list of these contracts, including their cost.

RESPONSE: We had one contract with Unisys for a total of \$1,761,800 for one year base, 5 year option contract. This was a single respondent in a competition among GWACs.

Please provide a listing of all fiscal year 2007 outside contracts of \$50,000 or more. In the listing, please indicate which contracts were not fully and openly competed.

RESPONSE: Please see attached Excel spreadsheet. This listing does not include modifications to active contracts awarded in FY's prior to FY 2007.

FY 2007 Outside Contracts of \$50,000 Or More

PIID	Competed (Dollars)	Not Competed (Dollars)	Procurement Type
SBAHQ07C0015	\$3,761,279.08		
SBAHQ07C0021	\$3,462,000.00		
SBAHQ07C0011	\$3,253,030.40		
SBAHQ07C0010	\$1,817,649.30		
SBAHQ07F0040		\$1,761,800.00	Non-competitive follow-on delivery order
SBAHQ07C0009		\$1,750,000.00	8(a)
SBAHQ07F0261	\$1,524,872.96		
SBAHQ07F0141		\$1,511,000.00	Non-competitive follow-on delivery order
SBAHQ07F0143		\$1,500,000.00	Non-competitive follow-on delivery order
SBAHQ07M0411		\$1,277,758.00	8(a)
SBAHQ07C0025		\$1,210,000.00	8(a)
SBAHQ07M0367		\$1,115,423.64	8(a)
SBAHQ07C0014	\$1,067,474.62		
SBAHQ07M0203	\$1,017,025.00		
SBAHQ07F0381	\$899,924.40		
SBAHQ07F0283		\$852,000.00	Non-competitive follow-on delivery order
SBAHQ07M0192		\$710,000.00	8(a)
SBAHQ07F0281	\$655,036.44		
SBAHQ07F0376	\$545,976.33		
SBAHQ07F0101		\$500,000.00	Non-competitive follow-on delivery order
SBAHQ07C0022			
SBAHQ07M0350	\$474,912.00		SDVOSB
SBAHQ07C0005		\$456,000.00	8(a)
SBAHQ07F0389	\$439,441.20		
SBAHQ07F0187		\$402,218.80	Non-competitive follow-on delivery order
SBAHQ07F0236		\$390,000.00	Non-competitive follow-on delivery order
SBAHQ07F0279	\$371,860.72		
SBAHQ07A0022		\$365,310.00	Sole Source
SBAHQ07F0049		\$360,000.00	Non-competitive follow-on delivery order
SBAHQ07M0072		\$332,440.00	Sole Source
SBAHQ07M0489		\$325,000.00	Sole Source
SBAHQ07M0219		\$312,000.50	FedSource (strategic sourcing)
SBAHQ07F0180		\$308,438.00	Non-competitive follow-on delivery order
SBAHQ07F0248		\$299,250.00	Non-competitive follow-on delivery order
SBAHQ07M0423		\$286,337.10	8(a)
SBAHQ07F0168		\$282,436.20	Sole Source

FY 2007 Outside Contracts of \$50,000 Or More

PIID	Completed (Dollars)	Not Completed (Dollars)	Procurement Type
SBAHQ07F0200	\$264,478.82		
SBAHQ07A0033	\$256,565.13		
SBAHQ07M0117		\$250,000.00	Sole Source
SBAHQ07F0169		\$250,000.00	Sole Source
SBAHQ07C0028	\$250,000.00		
SBAHQ07A0032		\$250,000.00	Sole Source
SBAHQ07C0023	\$250,000.00		
SBAHQ07M0525	\$250,000.00		
SBAHQ07F0170		\$250,000.00	Non-competitive follow-on delivery order
SBAHQ07C0027		\$249,887.68	8(a)
SBAHQ07F0167	\$237,288.85		
SBAHQ07C0019	\$230,967.90		Sole Source
SBAHQ07M0020			
SBAHQ07F0264			
SBAHQ07M0422		\$217,050.00	Non-competitive follow-on delivery order
SBAHQ07M0253	\$175,549.55	\$197,915.87	Sole Source
SBAHQ07M0119	\$167,096.35		
SBAHQ07C0007	\$163,680.00		
SBAHQ07F0302	\$158,760.00		
SBAHQ07M0155		\$158,460.00	SDVOSB
SBAHQ07C0026		\$155,000.00	8(a)
SBAHQ07F0361		\$150,000.00	Non-competitive follow-on delivery order
SBAHQ07M0112		\$150,000.00	Sole Source
SBAHQ07M0066		\$149,650.00	Sole Source
SBAHQ07M0397	\$148,488.00		
SBAHQ07M0218		\$145,230.53	Sole Source
SBAHQ07F0375	\$138,169.86		
SBAHQ07F0193	\$134,338.54		
SBAHQ07M0373		\$132,520.00	Sole Source
SBAHQ07F0220		\$127,809.50	Non-competitive follow-on delivery order
SBAHQ07F0084		\$123,872.60	Non-competitive follow-on delivery order
SBAHQ07M0182	\$123,488.00		
SBAHQ07M0157	\$122,840.00		
SBAHQ07M0470		\$113,450.00	8(a)
SBAHQ07F0057		\$112,000.00	Non-competitive follow-on delivery order
SBAHQ07M0076	\$104,136.00		

FY 2007 Outside Contracts of \$50,000 Or More

PIID	Completed (Dollars)	Not Completed (Dollars)	Procurement Type
SBAHQ07F0025		\$100,000.00	Non-competitive follow-on delivery order
SBAHQ07A0006	\$100,000.00		
SBAHQ07M0515	\$100,000.00		
SBAHQ07F0288		\$99,996.16	Sole Source
SBAHQ07M0383	\$99,739.00		
SBAHQ07M0465	\$99,348.09		
SBAHQ07M0508		\$98,850.00	SDVOSB
SBAHQ07F0135	\$97,920.46		Sole Source
SBAHQ07M0279	\$97,571.08	\$98,760.00	
SBAHQ07F0094	\$92,364.61		
SBAHQ07M0030		\$91,579.07	Non-competitive follow-on delivery order
SBAHQ07F0391	\$91,200.00		
SBAHQ07M0455		\$90,808.16	Sole Source
SBAHQ07M0484	\$86,378.40		
SBAHQ07F0093		\$85,347.20	8(a)
SBAHQ07M0453		\$85,220.00	Sole Source
SBAHQ07A0023		\$85,094.88	Sole Source
SBAHQ07M0407			
SBAHQ07M0428	\$84,846.23		
SBAHQ07F0384		\$82,957.80	Non-competitive follow-on delivery order
SBAHQ07M0237	\$81,740.00		
SBAHQ07M0490	\$81,500.00		
SBAHQ07M0343	\$81,000.00		
SBAHQ07F0316		\$80,005.90	Sole Source
SBAHQ07M0342	\$79,936.80		
SBAHQ07M0220		\$79,674.00	8(a)
SBAHQ07F0068	\$76,325.88		
SBAHQ07F0311		\$75,007.00	Non-competitive follow-on delivery order
SBAHQ07M0096		\$75,000.00	Sole Source
SBAHQ07F0010	\$75,000.00		
SBAHQ07M0348	\$71,700.00		
SBAHQ07M0517		\$70,850.00	Sole Source
SBAHQ07F0195		\$70,124.32	SDVOSB
SBAHQ07M0354		\$70,089.40	8(a)
SBAHQ07F0118			
SBAHQ07A0043	\$70,053.00		

FY 2007 Outside Contracts of \$50,000 Or More

PIID	Competed (Dollars)	Not Competed (Dollars)	Procurement Type
SBAHQ07M0161	\$69,704.00		
SBAHQ07M0518	\$62,010.00		
SBAHQ07F0284		\$61,635.00	Sole Source
SBAHQ07M0251	\$60,000.00		
SBAHQ07F0158	\$60,000.00		
SBAHQ07M0384	\$59,700.00		
SBAHQ07M0382	\$58,200.00		
SBAHQ07F0241		\$57,371.04	Non-competitive follow-on delivery order
SBAHQ07F0390	\$56,744.00		
SBAHQ07F0268		\$56,341.75	Sole Source
SBAHQ07M0204		\$56,160.00	Sole Source
SBAHQ07F0130		\$55,088.40	Non-competitive follow-on delivery order
SBAHQ07M0061	\$53,500.00		
SBAHQ07M0409	\$53,000.00		
SBAHQ07F0251		\$50,017.25	Sole Source
SBAHQ07M0298		\$50,000.00	SDVOSB
SBAHQ07M0385	\$50,000.00		
SBAHQ07F0356	\$50,000.00		
SBAHQ07M0104		\$50,000.00	Sole Source

3. Small business contracting

In FY 2006, Federal agencies reported to the SBA that a total of \$78 billion in Federal prime contract dollars went to small businesses, which is up from \$75 billion reported for FY 2005. However, there is concern that large firms obtain contracts reserved for small businesses and, in some cases, Federal agencies count contracts performed by large firms towards their small business procurement goals.

What resources is the Agency requesting in its budget to allow SBA to oversee the accuracy of reporting on approximately \$75 to \$78 billion in small business contracting?

RESPONSE: The SBA has, and is addressing Federal Agency's accurate reporting through a number of measures. On July 5, 2007 a revised Federal Acquisition Regulation (FAR) was issued requiring recertification of size on long-term contracts to ensure greater accuracy in reporting, and to encourage agencies to pursue new small business sources. The SBA's regulation, and the change to the FAR, took effect June 30, 2007. Under the rule, any small business that merges or is acquired must immediately "recertify" its size. If the company is no longer small, the contract continues, but the federal government can no longer count it as a "small" contract. Federal agencies will also immediately modify all existing long-term (over five years) contracts to require small businesses to recertify their size status for acquisitions, merger requests and to recertify their size status prior to an option being exercised. All existing contracts of less than five years will recertify when their first option is exercised. The vast majority of these contracts have one-year options.

Over the last two years, SBA has worked very closely with acquisition agencies and the Integrated Acquisition Environment (IAE) to clean up the electronic records in the contracting database and to make systemic changes to reduce the possibility that vendors that are 'other than small' are miscoded as 'small.'

During the summer of 2006, some \$12 billion of FY 2005 contract awards, characterized as having been made to small businesses, was challenged. In September 2006, the Administrators of the Office of Federal Procurement Policy (OFPP) and SBA required agencies to review their 2005 procurement data, identify discrepancies, and correct the records, as necessary. This process was completed in March of 2007.

In April 2007, SBA required that agencies review FY 2006 contracting data by June 30, 2007. Meanwhile, IAE deployed an analytical 'tool' and issued a battery of 'exception' reports to assist in data cleansing. On June 30, 2007, IAE 'locked down' the contracting database, and on August 17, 2007, SBA issued the FY 2006 Small Business Goaling Report, and re-issued the FY 2005 Small Business Goaling Reports.

In August 2007, SBA issued the first Small Business Procurement Scorecard. It provides for a 'current status' rating, based on actual performance, and a 'progress status' rating based on what agencies have done, and are planning to do, to improve performance. Notably, the scorecard includes an element addressing agencies efforts to ensure data integrity.

What funding has SBA identified as needed to limit errors by contracting personnel in awarding small business set asides to large firms, and to identify potential fraud by contractors for referral to the Inspector General for investigation?

RESPONSE: The Office of Federal Procurement Policy (OFPP) and SBA required agencies to review that the Chief Acquisition Officers of agencies establish comprehensive, statistically-valid contracting data verification and validation procedures, and that they certify data accuracy and completeness to the General Services Administration (GSA), the 'owner' of FPDS-NG, each year. The first statement of data verification and validation was to be submitted to OFPP by December 15, 2007.

Additionally, SBA utilizes the Small Business Procurement Scorecard modeled after the President's Management Agenda. The scorecard includes an element addressing agencies' efforts to ensure data integrity.

What has SBA done to verify that these amounts are sufficient?

RESPONSE: Although there is not a specific line item in the budget to support identifying these errors, the SBA uses many resources such as staff, travel, and training resources to address concerns about data integrity. SBA staff works with other federal agencies to provide training to contracting staff on small business programs. Additionally SBA works with GSA to develop reports to identify anomalies and to further assist in correctly coding the data.

In a response to a question for the record on contract bundling posed after last year's hearing, SBA stated that it was committed to increasing the number of Procurement Center Representatives (PCRs) who review Federal agency acquisitions with an eye toward increasing small business participation in procurements. The Committee understands that SBA now plans to increase the number of PCRs to about 60.

Has SBA increased the number of PCRs during the time since last year's hearing before the subcommittee?

RESPONSE: SBA is committed to hiring more Procurement Center Representatives (PCRs). SBA continues to hire additional PCRs this year with the goal of increasing the number of PCRs to 66 by the end of this quarter.

Are there additional resources in SBA's FY 2009 budget request to hire additional PCRs?

RESPONSE: By the end of this year SBA will have increased the number of PCRs from 53 to 66. This is almost 25% increase in the PCR workforce. We are committed to maintaining a full complement of sixty-six procurement center representatives (PCRs) and are confident this number will be sufficient to support attainment goals for all procurement preference programs.

How can even 60 PCRs effectively monitor \$75 to \$78 billion of small business contracting activities in 2000 procurement facilities across the country?

RESPONSE: SBA has placed the PCRs strategically in the locations (i.e., buying activities) where they can have the greatest impact. One PCR may cover a number of buying activities/agencies with the greatest dollar volume of spending. We are also providing more tools and training to our PCRs and contracting officers. This includes the recently implemented Quick Market Search. This tool will allow procurement officials to conduct market searches quickly and easily to find small businesses that can perform Federal contracts.

Additionally, PCR efforts are being geared more fully to assisting Federal agencies in meeting their goals. Up until now, requirement 'coordination' between SBA and procuring agencies was essentially limited to review and appeal of unrestricted requirements for possible small business set asides. Under this initiative, requirement coordination will extend to review and appeal of requirements for small business set-asides under HUBZone and Service Disabled Veteran Owned Small Businesses.

SBA released the first Small Business Procurement Scorecard in August 2007. This scorecard rates Federal agencies' success in making Federal procurement more accessible to small businesses.

What are the measures of success used by this Scorecard?

RESPONSE: The Procurement Scorecard is comprised of two sections. The first section, or left side of the scorecard, reflects agencies' 'current status,' and the second section, or right side, displays the agencies' 'progress.' We evaluated current status and progress based on the FY 2006 Small Business Goaling Report as of June 30, 2007, and responses submitted by each agency, pursuant to our "Guidance Document: Small Business Procurement Scorecard Response and Evaluation."

Criteria for Current Status:

Green – An agency must meet their Small Business goal, 3 socio-economic goals, and make progress in the remaining goal.

Yellow – An agency must meet their Small Business goal, 2 socio-economic goals, and make progress in at least 1 goal.

Red – An agency will received a grade of "Red" if they did not meet their small business goal or did not meet at least 2 socio-economic goals.

Criteria for Progress:

Green – An agency must have at least a current status grade of "Yellow" and meet all yellow standards (all 8 of the evaluated questions were responsive)

Yellow – At least 6 of the 8 evaluated questions must appear responsive

Red – An agency will receive a grade of "red" under progress if it fails to meet criteria for the yellow.

How can agencies better promote small business participation in procurement?

RESPONSE: Agencies can better promote small business participation in procurement by establishing a small business acquisition policy that encourages agency personnel with acquisition and purchasing authority to use small businesses whenever possible. As a best practice, agencies may use outreach events to congregate procurement personnel with small businesses. SBA is currently working with several agencies to share best practices that can be shared across the agencies.

The Scorecard was to be updated every six months. Has there been an update since August 2007? If so, please provide the Committee with the latest Scorecard.

RESPONSE: In an ongoing process over the past several months, Federal agencies have shown unprecedented commitment to increasing small business contracting opportunities; SBA is working closely with every agency to make sure that effective small business contracting plans are in place for next year. We continue to work with all of our federal partners to develop a scorecard evaluation process in consultation with the Small Business Procurement Advisory Council. Based on this process, SBA measured each agency's small business program plan based on nine critical elements. This is an ongoing process and the most recent draft scorecards have not been released to date.

4. Loan Management and Accounting System (LMAS)

SBA initiated a loan modernization program to replace its current systems that were implemented in the late 1950s. The fiscal year 2009 budget requests \$16.2 million for this effort, and the total lifecycle cost of the effort is estimated to be \$135 million.

What steps is SBA taking to ensure that the program is completed on schedule and within budget, and that it will meet stakeholder expectations?

RESPONSE: We are taking the following steps to ensure that the project is completed on schedule and within budget:

- Establish the Program Management Office (PMO) - SBA is in the process of establishing the Program Management Office (PMO). SBA is hiring two additional project managers (one in the Office of Capital Access and other in the Office of the Chief Financial Officer) to help manage the program. SBA is also in the process of acquiring the Program Management Services to help SBA manage this program.
- Acquire Independent Verification and Validation (IV&V) service provider - SBA will also acquire the services of the IV&V service provider to provide quality assurance and independent verification and validation.
- Develop Blueprint/Roadmap and conduct Integrated Baseline Review - SBA is in the process of acquiring the services of the Solution provider. Upon award of the contract,

SBA will issue a task order to develop a roadmap/blueprint to implement the solution incrementally. At the end of the blueprint phase, SBA and the vendor will agree on the detailed plan by conducting the Integrated Baseline Review (IBR). The IV&V team will also participate in the Integrated Baseline Review (IBR) to ensure that the plan is realistic and achievable.

- Issue performance-based task orders incrementally - SBA will then incrementally issue performance-based Firm Fixed Price task orders based on the agreed upon Blueprint/Roadmap and detailed plan. Each task order will have clearly defined scope and schedule, and requirements
- Use Earned Value Management and Quality Assurance to monitor the progress - The PMO will use Earned Value Management (EVM) to monitor the progress of each deliverable under each task order and take corrective actions. The PMO will also meet with the solution provider on weekly basis to assess the progress, identify any risks and develop mitigation strategies. The IV&V team, as part of the quality assurance, will also provide the LMAS Program Manager a periodic report on the progress of the project.

We are taking the following steps to ensure that the project meets stakeholder expectations:

- Commission the Steering Council - SBA has commissioned the senior level Steering Council that includes CFO, CIO, Senior Procurement Executive (SPE), Associate Administrator of Capital Access, Associate Administrator of Disaster Assistance and a representative from Office of the Administrator. The Steering Council agreed on the vision and the strategy SBA is using. The Steering Council meets every week to review the progress and help resolve issues.
- Involve the stakeholders from the beginning - SBA has formed the Integrated Solutions Team (IST) with members from all the offices and servicing centers. The IST participated in the Market Research and is participating in the acquisition process to acquire the solution and solution provider. The stakeholders will be involved in every step of this effort including requirements analysis, design, testing and implementation.
- Select a loan solution by evaluating Commercial-Off-The-Shelf (COTS) solutions configured by the vendors based on the test scripts prepared by the stakeholders – SBA stakeholders have developed the test scripts that each vendor will use to configure their COTS package to demonstrate the capabilities of their proposed solution as part of the formal acquisition process. The evaluation team will evaluate each vendor's proposed COTS package based on these scripts. These test scripts will help ensure the vendors have a clear sense of SBA's requirements needs and business processes.
- Achieve buy-in by developing and demonstrating prototype for the full lifecycle of 7a Regular loan program - SBA is in the process of acquiring the services of the Solution provider. Upon award of the contract, SBA will issue a task order to develop a prototype for the full lifecycle of 7a Regular loan program based on the requirements provided by the users. This process will help users learn and understand the methodology used by the

vendor to configure the proposed COTS based on the users' requirements. This process will also help achieve buy-in from all the functional groups.

- Perform independent quality assurance function to ensure that the stakeholders' requirements are met - SBA is asking the prime contractor to be at a minimum CMMI level 2 certified and provide a Quality Control Plan and Quality Assurance Surveillance Plan (QASP). SBA's IV&V contractor will perform Quality Assurance and Independent Verification and Validation to ensure the stakeholders' requirements are met.

Of the various acquisition, organizational, and business risks SBA has identified for this project, which will be the most challenging? Have sufficient resources been requested to mitigate these risks?

RESPONSE: The acquisition risks are the most challenging. SBA has partially mitigated the risk by acquiring the services of the Acquisition Service provider to acquire the services of the Solution Provider. We are in the process of requesting a dedicated contracting officer for this program.

The other risks that are very challenging are organizational risks. SBA is in the process of hiring two additional project managers to manage the program. SBA is planning to use the formal change management process to manage this organizational change.

What has SBA done to limit the security vulnerabilities of the legacy systems while waiting for the implementation of the LMAS?

RESPONSE: In March of 2005 the Agency implemented Transaction Information Processor (TIP) – An OS 2200 software product that manages the development and execution of online transaction processing applications. The application validates the user security identity (user id and security record) before a communications path is opened to a terminal through the communications management system (CMS). Also, in February 2008 a Certification and Accreditation was performed. Weakness and vulnerabilities were identified and a Risk Mitigation Plan was developed to close all vulnerabilities.

In addition legacy systems are all subject to all other Agency Security Protocols and Procedures.

5. Business Gateway

Business Gateway offers small businesses a centralized resource for information on government resources, forms and regulations. The program is currently funded as an e-government initiative with 22 agencies, including SBA, contributing funding.

Has the Business Gateway initiative moved from the development phase to operation and maintenance status?

RESPONSE: Business.gov and Forms.gov, the two websites funded through the Business Gateway initiative, will be in an operation and maintenance mode by the start of FY 2009. For

purposes of clarification, the 'operation and maintenance' mode refers to a stable infrastructure. Even in this mode, both websites will continue refreshing the content and tools available to reflect changes in agency regulations and related guides published for small businesses and to respond to feedback received from business owners.

What is the breakdown by agency of the \$2,649,352 that Business Gateway is expected to receive from participating partners in fiscal year 2009?

RESPONSE:

USDA - \$249,299
 Commerce - \$249,656
 Defense - \$74,585
 Education - \$64,609
 Energy - \$86,235
 HHS - \$216,701
 DHS - \$108,146
 HUD - \$125,781
 Interior - \$119,012
 Justice - \$78,041
 Labor - \$223,024
 State Department - \$61,937
 Transportation - \$86,947
 Treasury - \$354,132
 Veterans Affairs - \$71,655
 EPA - \$209,308
 GSA - \$72,875
 NASA - \$46,894
 NSF - \$49,388
 OPM - \$12,648
 SSA - \$88,658

What would be the advantages of directly funding Business Gateway under SBA starting in fiscal year 2009, rather than relying on participating agency contributions? What would be the disadvantages?

RESPONSE:

Advantages to direct SBA funding:

- Time spent on governance activities could possibly diminish, allowing the program staff to spend a greater amount of time on content issues.
- The labor-intensive process of negotiating and signing Memoranda of Understanding (MOUs) and related funding documents, which requires coordination within several SBA offices and the partner agencies, could be eliminated.

Disadvantages to direct SBA funding:

- The current inter-agency governance and funding model leads partner agencies to be more involved in the direction and content of Business.gov and Forms.gov. Agency commitment levels and input might change once this is removed.

Will there be administrative cost savings for SBA if the interagency transfers are replaced by direct funding?

RESPONSE: Yes, but it is difficult to predict the amount of savings. A variety of SBA personnel are involved in reviewing, tracking, and executing the MOUs and financial transactions. Within the Business Gateway program, one individual spends the equivalent of two staff months supporting the MOU execution and interagency transfers, but this person also supports several other administrative functions as well.

There are some contractor resources devoted to supporting the governance meetings, but it is unclear if the Advisory Board and Governance meetings would stop completely. The FY 2009 budget request incorporates an anticipated decrease in governance for Business Gateway and reduced staffing for inter-agency coordination.

6. 7(a) loan guarantee program performance measures

Last November, the Government Accountability Office testified that SBA has limited information on how well the 7(a) loan guarantee program helps small businesses succeed. GAO recommended that SBA “complete and expand its work on evaluating 7(a)’s performance measures and that SBA use the loan performance information it collected, such as default rates, to better report how small businesses fare after they participate in the program.” I understand that SBA agreed with GAO’s recommendations.

What progress has SBA made in the last few months to implement GAO’s recommendations and improve performance measurement for the 7(a) program?

RESPONSE: For FY 2008 the SBA has established the following performance measures to assess the 7(a) Loan Program. These measures are included in the Performance Assessment Rating Tool (PART) and SBA FY 2009 Congressional Budget Justification (FY09 CBJ). Consistent with GAO’s recommendations to identify outcome measures, SBA recently released a report prepared on its behalf by the Urban Institute that establishes a baseline for the following outcome measures: average sales, employment and survival rate of SBA loan recipients for the 7(a) loan program. These measures will be updated on a recurring basis in order to evaluate the outcomes of SBA’s business loan programs.

- Number of Loans Approved
- Number of Loans Funded
- Number of Small Businesses Assisted
- Number of Loans Approved - Underserved Markets*
- Number of Loans Funded - Underserved Markets

- Number of Small Businesses Assisted – Underserved Markets
- Cost of Loans funded
- Cost of Small Businesses Assisted
- Jobs Created or Retained

* “Underserved Markets” is defined as those businesses located in a Hub zone, Low-to-Moderate Income Area, or an Enterprise Zone or Economic Community.

What types of performance measures do you believe would be most effective in evaluating the success of the program?

RESPONSE: SBA believes the performance measures outlined above, when taken together, allow the agency to gauge the 7(a) program’s effectiveness in supporting the Agency’s strategic goal of “expanding America’s ownership society, particularly in underserved markets.”

7. Disaster loan recoveries

Please provide details to support the recovery estimates for the disaster loans program for FY 2009.

RESPONSE: The Disaster Assistance program recovery rate for loans obligated in FY 2009 is 16.70 percent for the life of the cohort. The rate is based on historical performance of recoveries from the borrowers by the SBA and via the Treasury Offset Program for all defaulted loans that were obligated since FY 1992.

What was the accounting adjustment made for FY 2008?

RESPONSE: SBA made a \$111 million accounting adjustment at the end of FY 2007 to reduce “undelivered orders” to recognize the expiration of Hurricane Katrina disaster loan approvals past their “disbursement period”. A similar adjustment to Disaster loan approvals was made at the end of FY 2006 in the amount of \$200 million. SBA is monitoring Disaster approvals during FY 2008 and we expect that there will be no approvals past their “disbursement period” this year, so we do not expect to have a similar adjustment in FY 2008.

How were recoveries made to the administrative expenses for FY 2007?

RESPONSE: SBA’s FY 2009 budget request indicates that recoveries totaling \$12.3 million were a source of funds for disaster administrative expenses in FY 2007. These recoveries relate to prior year obligations, and included several large contracts, that were subsequently deobligated for various reasons. Since these are no year funds, funds are available until expended.

An Inspector General audit report issued in June, 2007 found that SBA was not maximizing recovery in liquidation of defaulted disaster loans that were made prior to the 2005 Gulf Hurricanes, resulting in millions of dollars of losses.

What steps will SBA take to ensure that it maximizes recovery of taxpayer dollars?

RESPONSE: The SBA completed the centralization of all liquidation activity associated with defaulted disaster loans during 2007. This change has standardized the recovery process applied to defaulted loans and provided for timely transfer of loans charged off and referred to Treasury for offset. SBA continues to focus on data and process improvements that help ensure we are maximizing recovery of taxpayer dollars.

8. Disaster loan administrative expenses estimates

Please provide the assumptions used for the model to arrive at the requested level for disaster loans administrative expenses.

RESPONSE: The amount of funds requested is determined by the average historical ratio of administrative expenses compared to the ten year average historical loan volume, excluding extraordinary events.

9. Liquidation Of Defaulted Disaster Loans

What planning has SBA done to address the likely exponential increase in liquidation of defaulted loans to victims of the 2005 Gulf Hurricanes?

RESPONSE: SBA has actively engaged in planning for expected increases in defaulted loans. We have reviewed information from our servicing centers to project default rates. As these rates increase, we have added and continue to add permanent and contract staff to our liquidation centers. Additionally, we have completed policy and process improvements to help maximize recoveries, and streamline our work. These changes include allowing our servicing centers to charge off and refer loans to Treasury (which also helps to meet Debt Collection Improvement Act (DCIA) requirements). We are closely monitoring the workload and turnaround times with our liquidation centers in order to quickly identify and address issues.

10. Office Of Credit Risk Management

The Office of Credit Risk Management recently has been approved to increase its staffing level from 14 to 20 persons. This office reviews all lender portfolios through a computerized data system, oversees the work of multiple contractors that perform on-site reviews of the several hundred largest lenders and certified development companies (CDCs), oversees the risks of the remaining several thousand lenders and CDCs that are not subject to on-site reviews, and recommends and implements corrective action to address lender deficiencies. SBA's total loan portfolio has increased by 59 percent since FY 2001. In FY 2007 alone, a total of 103,000 new 7(a) and 504 loans were funded – the most in the Agency's history – representing \$19.8 billion in new lending.

Although the increased staffing for the lender oversight office is a positive step, how can 20 people effectively perform oversight of the portfolios and lending actions of thousands of lenders and CDCs?

RESPONSE: While the Agency has increased the number of staff in OCRM, it is important to understand the framework in place in order to appreciate the resources available for oversight purposes. OCRM leverages contractor resources to increase the impact of its onsite and offsite oversight activities. First, OCRM uses its Loan and Lender Monitoring System to help identify risk, enabling OCRM to concentrate its oversight efforts on the riskiest lenders. Additionally, OCRM uses contractors, with hands-on SBA management to perform on-site reviews of all “large lenders.” While it is important to adequately staff OCRM, contracts in place provide significant additional resources for oversight beyond the on-board staff. In that regard, OCRM is currently in the process of recruiting four additional employees. This will bring the total number of OCRM employees to 23, a 64% increase from the 14 mentioned above. This increase in staff allows SBA to implement a critical part of the reorganization of OCRM by establishing a ‘Large Lender Team’ that is responsible for oversight of the 450 largest lenders and CDCs that account for 85% of the outstanding 7(a) and 504 guaranteed dollars. The Agency will continue to monitor the resources available to OCRM for oversight purposes and add additional resources as needed.

What kind of planning has SBA done to ensure that it has sufficient personnel and resources to be able to perform effective lender oversight to minimize risk to taxpayer and agency dollars and how is this reflected in SBA’s budget?

RESPONSE: As discussed above, OCRM utilizes both staff and contractor resources in conducting its oversight program. Staff resources are assessed based on caseloads with different caseloads established for the Large Lender Team and the Small Lender Team. The Large Lender Team is responsible for oversight of the 450 largest lenders and CDCs that hold about 85% of the outstanding 7(a) and 504 guaranteed dollars and has a much lower caseload. The Small Lender Team oversees a considerably larger number of lenders holding the remaining 15% of the portfolio. This team will manage oversight on more of an exception basis. This organization allows SBA to focus its resources where the largest area of risk exists. Additionally, contractors support the Agency’s oversight efforts. OCRM uses its off-site Loan and Lender Monitoring System to help identify risk, enabling OCRM to concentrate its oversight efforts on the riskiest lenders. OCRM also uses contractor resources, with hands-on SBA management, to perform on-site reviews of all ‘large lenders’. These contractor resources are reflected in the budget and are generally reimbursable through fees from lenders, further protecting the taxpayers. We believe these resources allow us to properly and adequately oversee SBA’s lenders and to protect taxpayers’ dollars.

What resources has SBA identified as being needed to implement a system to identify potential fraud in SBA’s loan programs so that it can refer these cases to the Inspector General for investigation?

RESPONSE: Whenever OCRM detects any suspicious activity, we refer it to the IG. OCRM has been actively researching various private sector vendors that could leverage OCRM L/LMS data with commercial third party data, to search for indicators of suspicious activity. We would be notified of this activity and would refer these cases to the IG. Also, OCRM reviewers currently look for suspicious activity as they review the large lenders and CDCs that hold about 85% of the 7(a) and 504 portfolios guaranteed dollars. These reviewers are provided training in eligibility, potential fraud, and suspicious activities. Lastly, deeper portfolio analysis will allow

SBA to identify and explore trends and unusual patterns in loan performance that may be an indicator of potential fraud.

11. Limiting improper payments through effective reviews of lender guaranty purchase requests

When an SBA-guaranteed loan goes into default, lenders submit requests for payment of the guaranty to one of three SBA centers, which reviews the lender's administration of the loan and determines whether SBA is legally obligated to "purchase" the guaranty. As more than 90 percent of guaranteed loans are made with virtually no review by SBA, guaranty purchase reviews are generally the only time that SBA will look at a loan file to determine whether the lender performed adequate due diligence before it made the loan and complied with the Agency's loan requirements. Dozens of Inspector General reports issued in the past several years identified guaranties that were purchased by SBA despite the absence of required documentation or the existence of material lender problems. Recently, SBA has made efforts to re-engineer the purchase process at one of its Centers and to reduce the backlog of unreviewed loans and expedite approve of lender payment requests.

What resources has SBA identified in its budget to ensure that SBA reviewers are not making improper payments when they pay loan guaranties?

RESPONSE: SBA has dedicated substantial resources to increasing staff at its Centers, and to providing training for those staff to ensure that they have the tools and skills needed to perform effective reviews of purchase requests. Staffing at the National Guaranty Purchase center has more than doubled. Additionally, SBA has invested in quality assurance capacity to serve the processing centers in addition to improving internal controls across the agency.

12. 8(a) business development program

The Inspector General has reported serious problems with SBA's administration of the 8(a) business development and minority contracting program. These included problems ensuring that firms participating in the program were actually owned and operated by disadvantaged individuals and were truly in need of governmental assistance. Additional concerns related to the limited training provided to 8(a) program personnel and whether such personnel have the skills and competencies needed to effectively perform their duties and limit program participation only to eligible firms. Further, over the past ten years, the Inspector General has investigated numerous cases where 8(a) contracts were actually performed covertly by large, non-disadvantaged firms.

What resources is SBA devoting towards training agency staff, ensuring that there are sufficient staff and resources to oversee this program, and conducting adequate oversight to ensure that procuring agencies are fulfilling their responsibilities?

RESPONSE: Please see the response below entitled "Office of Business Development's Summary of Accomplishments."

In a response to a question for the record on the 8(a) program asked after last year's hearing before the subcommittee, SBA noted that it had "engaged a contract to conduct a review/assessment of the business processing functions of the 8(a) BD Program... and design a plan consisting of both short and long term methodologies for re-engineering the improving those functions."

What is the status of this effort?

RESPONSE:

OFFICE OF BUSINESS DEVELOPMENT'S SUMMARY OF ACCOMPLISHMENTS

The Office of Business Development has embarked upon several initiatives in an effort to improve program oversight and delivery, and ensure that the 8(a) Business Development Program is relevant to a changing industry.

Some of these initiatives are outlined below.

I. BUSINESS DEVELOPMENT PROCESS IMPROVEMENT SUPPORT:

A. *BUSINESS DEVELOPMENT MANAGEMENT INFORMATION SYSTEM (BD-MIS)*

SBA wants to refocus the program (by streamlining and automating various processing functions) to emphasize "business development." The Office of Business Development did a complete process reengineering of the 8(a) Business Development program and SDB certifications. The business process reengineering included:

- 8(a) applications
- SDB certifications
- Annual Reviews
- Mentor Protégé Program
- Joint Ventures
- Competitive Mix (8(a) contracts vs. non 8(a) contracts)
- Termination Process

SBA awarded a contract (to the contractor that developed the e-Application system) to refine and further develop BD-MIS. The contract includes development of the certification and e-Annual Review and the business process modules.

BD-MIS is a comprehensive, integrated system that will support the activities of the Office of Business Development. It consists of the following components:

- Electronic 8(a)/SDB Certification Application
- Electronic Annual Review/Continued Eligibility
- Various Back Office functions (defined below)

The new BD-MIS has been delivered to the agency and is currently being tested with planned deployment in June, 2008.

Currently, at least half the paper applications received by the SBA for processing are incomplete. These applications must be returned to the sender for him/her to make the necessary corrections and then re-submit to the SBA. This back-and-forth process can occur several times for a given application. The automated system will only allow completed applications to be submitted to the SBA, eliminating this back and forth process, and thus reducing the burden on the public.

Expected Outcomes:

- The Office of Business Development will have one system for data reporting and tracking
- BD-MIS will enhance the efficiency of SBA's field office staff (who perform 8(a) annual reviews) allowing them to focus more on business development activities for their 8(a) firms
- Ensure data integrity

The BD-MIS is a great automation tool and – when fully deployed – will significantly enhance field staff's ability to process 8(a) Annual Reviews to determine the continuing eligibility of 8(a) firms within the statutorily mandated timeframe.

B. *WEB-BASED 8(a) BUSINESS DEVELOPMENT ASSESSMENT TOOL*

The Office of Business Development, in conjunction with the Office of Entrepreneurial Development developed "***INSIGHT: GUIDE TO THE 8(a) BD PROGRAM***" which is a self-paced online training program (with an indexed guide) that explains the 8(a) eligibility criteria, 8(a) application process and the resources available to assist 8(a) firms.

This Guide is intended to provide comprehensive information that will assist potential applicants determine if the 8(a) Program is right for them before they submit an application. This Guide also reduces the number of 8(a) applications that are returned (as a result of incomplete information) and improves our application turnaround timeframes.

In addition, the Office of Business Development working closely with the Office of Entrepreneurial Development, created an Assessment Tool for potential 8(a) and SDB applicants. The 8(a) Suitability Assessment Tool is a web-based, fully automated tool designed to help prospective 8(a) firms better determine if they are a good fit for the program. The tool serves as a self-paced filter governing the number and quality of new 8(a) applicants, based on suitability and eligibility criteria. The assessment tool has several tracks:

1. Track 1. Firm is not yet in business
2. Track 2. Firm is not eligible

3. Track 3. Early start-up or “not ready” business operating without a business plan
4. Track 4. Business is likely not suitable because of industry type
5. Track 5. (Score of 0) Systems error or no questions answered
6. Track 6. (Score of 5-50) Growing firm with solid potential as an 8(a) candidate
7. Track 7. (Score of 55- 75) Good candidate, ready to apply

We have also developed in conjunction with the Office of Entrepreneurial Development, an on-line self-paced training program designed to help women and all small business clients understand and participate in federal contract markets. This web-based tool includes over 40 Web links highlighting the best contracting resources and directly engages customers in the contracting process, specifically CCR and DUNS registration and federal business opportunity searches.

II. **7(j)) MANAGEMENT AND TECHNICAL ASSISTANCE TRAINING CURRICULUM**

The 7(j) Management and Technical Assistance program is one of the forms of business development assistance provided to more than 8,800 firms that participate in the 8(a) Business Development program- as well as other 7(j) eligible concerns. In recent year's SBA has been able to leverage the assistance provided through the 7(j) program with other forms of management and technical assistance. In addition, SBA's Business Matchmaking initiative and other agency-sponsored workshops, seminars and conferences have augmented the 7(j) assistance provided to the small business community. Over the past five years, 19,447 firms have received SBA funded technical assistance through the 7(j) program.

We have revised the curriculum of training courses (offered through our 7(j) Management and Technical Assistance Program) in an effort to ensure that our 8(a) firms remain viable and are equipped with the tools to compete in the marketplace.

During FY'07, 2,400 7(j) eligible (including 8(a) firms) received 7(j) training. The training, conducted nationwide consisted of a two day shop that focused on:

- a.) Marketing and doing business with the Federal Government
- b.) Learning the procurement process and how to write winning proposals
- c.) Improving financial management skills
- d.) Improving management and leadership skills
- e.) Using the Mentor-Protégé programs
- f.) Crafting an effective cost proposal
- g.) Maximizing cash flow management
- h.) Cost and Pricing training

In FY' 08, the overall number of workshops was increased from 78 to 100 nationwide and resulted in more training opportunities to the 7(j) eligible customer. This has resulted

in the ability to offer training to all SBA field offices during FY'08. The contractor will also produce a DVD and a workbook for the "Cost and Pricing" workshop.

III. ELECTRONIC TRACKING TOOLS TO IMPROVE 8(a)/SDB APPLICATIONS PROCESSING TIMEFRAMES:

The Office of Business Development developed a tracking tool for 8(a)/SDB applications and a reporting mechanism that allows Headquarters and Field staff to check on the status of specific applications, or generate a report on the cycle time of the application process to ensure compliance with regulations. The electronic tracking tools also improve communication with customers and reduce the amount of time it takes to render decisions regarding applications. BD developed a sharepoint portal which is a one-stop web-based portal of reports, data on the 8(a) Program, contract information and other resources that will assist SBA field staff in servicing 8(a) firms. The sharepoint portal includes real time information on all of the production processes within the Office of Business Development.

- 8(a) applications
- SDB Certifications
- Mentor/Protégé Agreements
- Change of Ownership
- Terminations

IV. INITIATIVES AIMED AT INCREASED OVERSIGHT AND STRENGTHENING INTERNAL CONTROLS:

In an effort to ensure greater oversight as it relates to 8(a) contracts issued by procuring agencies, SBA's Office of Business Development has revised the language in the Partnership Agreements (between SBA and the procuring agencies) to clarify roles and responsibilities. The revised Partnership Agreements specifically require the procuring agencies to monitor 8(a) firm's compliance with contract performance. In February 2007, the Office of Business Development began conducting training for the procuring agencies with regard to rules and regulations governing the 8(a) Program and the revised language in the Partnership Agreements. This training is intended to ensure that contracting officers and technical representatives are adequately advised of their responsibilities concerning 8(a) contract compliance.

A. Signed Partnership Agreements: Partnership Agreements have been executed between SBA and **38** procuring agencies. These executed Partnership Agreements have been placed on SBA's website.

B. Training Conducted on the Partnership Agreements: In FY'07, BD conducted training to **eight (8)** Federal agencies on the revised Partnership Agreements.

Thus far in FY'08, BD has conducted six (6) Partnership Agreement training sessions for **10** Federal agencies which were attended by a total of **345** procuring officials.

C. **8(a) ANC Procurement Roundtable Forum:** SBA hosted a Procurement Roundtable Forum on October 31, 2007, targeting 7 major federal Agencies. The following 7 agencies participated in the Forum:

DoD
NASA
DOE (Energy)
Department of Interior
Department of State
Department of Transportation
Department of Homeland Security

D. Additional Training Forums Conducted:

- **December 7, 2007**
Two one-on-one procurement roundtable follow-up meetings took place with DoD and NASA
- **February 7, 2008**
SBA conducted nationwide training for procurement officials at DoD as part of the Defense Acquisition University.
- **March 26, 2008**
SBA conducted training (which focused on 8(a) ANC-owned firms) for procurement officials at the Defense Contract Management Agency.

E. **SBA University:** BD provided training to the Business Development Specialists (BDSs) on specialized areas of the 8(a) program, including "how to process Mentor/Protégé Agreements." We provided the BDSs with templates of the BDS Analysis, the District Director's memo and the District Counsel's review that should be used for future submissions of the Mentor-Protégé Agreement (M/P-A) applications. We also provided the attendees with a M/P-A file template that included a table of contents for each section so that they will understand how to package and submit the required documentation from the prospective Mentor and the prospective Protégé. We developed a checklist on "How to Apply for SBA's Mentor/Protégé Program," for the Mentor and Protégé. This checklist is available on-line at: www.sba.gov/gcbd. We also developed checklists for the BDSs on what to submit to the Office of Business Development when forwarding M/P-A packages and for analyzing the Mentor/Protégé relationship during the Protégé's (8(a) firm's) 8(a) Annual Review Update. The use of the templates has resulted in a faster turnaround processing timeframe of Mentor-Protégé Agreement applications for the 8(a) firms as well as the SBA field offices.

What significant issues and problems has the review identified?

RESPONSE: The Office of Business Development had a significant backlog in 8(a) applications and Small Disadvantaged Business (SDB) applications. Four previous attempts to automate the process failed to produce any significant results that would assist the small business customer or the staff of SBA at the certification centers, field offices or at headquarters. Databases to collect and report the status of applications and annual reviews did not exist within the Office of Business Development.

New activity:

A strategy was developed and implemented to solve both the immediate backlog of 8(a) applications and a permanent implementation plan that would exceed customer expectations and reduce the cumbersome workload of SBA staff. A cross functional team approach was utilized in order to eliminate the backlog of 8(a) applications. A matrix team of volunteers from SBA offices at headquarters and the existing Small Disadvantaged Business (SDB) certification unit provided full time support in processing 8(a) applications. The SDB applications were processed by 54 volunteers located in field offices.

A business process reengineering of the entire Office of Business Development was simultaneously conducted (including the 8(a) and SDB applications processes, Mentor-Protégé and Joint Venture Agreements, Annual Reviews, Competitive Business Mix, and the Termination processes). A new plan was approved by the Administrator to bring value to the customer and to SBA staff by implementing the reengineering recommendations with an automated Business Development Management Information System. The original plan was to fund a new Business Development Management Information System in FY 09 which might have been implemented in FY 10.

Results achieved:

The current production processes in BD (8(a), SDB, Mentor Protégé, Change of Ownership, and Terminations) databases have been created and reports are generated daily for production office areas that easily cascade (point and click) down to portfolio management by individual analysts. All of the current and historical information is displayed on SharePoint providing transparency to the entire agency. Backlogs and congressional inquiries have essentially been eliminated in all of the BD production process. Potential 8(a) and SDB customers have a direct point of contact for any customer service inquiry.

Results expected:

The new Business Development Management Information System was presented to the Administrator and Deputy Administrator on March 31, 2008. This new system will be delivered on time and on budget and will be tested for sixty days before deployment. The reengineered and automated processes will refocus the 8(a) Business Development Program to a "business development" program and will significantly reduce the lead and cycle time for 8(a) and SDB applications and annual review processing.

Please describe the actions SBA has taken or is planning to take to improve the administration and oversight of the 8(a) program as a result of this effort.

RESPONSE: As part of the continuing commitment to provide training through the SBA University, to ensure that we have a qualified and highly skilled workforce at the SBA, the Office of Business Development proposes to offer a training forum for SBA field personnel in the Dallas Fort Worth Disaster Processing Disbursement Center (PDC) and training in Washington for the Office of Business Development staff in the certifications centers. In keeping with the intent of Congress that the 8(a) Program be a business development program, the Office of Business Development is committed to ensuring that SBA field personnel have the requisite knowledge base and training to effectively service 8(a) firms.

As you are aware, since its inception, the 8(a) Business Development Program has significantly enhanced the agency's mission and contributed toward the growth of the American economy. Although the 8(a) Program has enjoyed numerous successes, the Program is continuously under scrutiny by various factions and outside groups. Consequently, our office has developed and implemented a number of initiatives to provide tighter internal controls and increase the level of monitoring and oversight of the 8(a) Program.

One of the areas that has come under scrutiny, is the manner in which Alaska Native Corporations (ANC) (owned by 8(a) firms) utilize the 8(a) Program.

In an effort to mitigate the risks associated with Business Development Specialists (BDSs) who are responsible for handling issues related to the expansion and growth of ANCs in the 8(a) Program, the Office of Business Development is developing training sessions with the Business Development Specialists in the field that have Alaska Native Corporations in their portfolio and separate but specialized training for the Business Opportunity Specialists at the 8(a) certification centers.

The SBA provided an Information Notice to all employees announcing the release of SOP 80 05 3, Revision A, Chapter 5, entitled, "Participant Review Process" which has now been inserted in the 8(a) Program SOP 80 05 3. This chapter provides guidance regarding the procedures (and documents required) to conduct an 8(a) Participant's annual review, which must be completed annually in order to determine an 8(a) firm's eligibility for continued 8(a) participation.

As a result of the Business Process Reengineering several other modifications to improve the oversight and internal controls are being incorporated into the 8(a) Program SOP 80 05 3. They include Chapter 8 (Joint Ventures and Teaming Arrangements), Chapter 9 (Mentor Protégé Program), and Chapter 10 (Leaving the 8(a) Program) are currently in the clearance process.

13. HSPD-12

On August 27, 2004, the President signed HSPD-12, *Policy for a Common Identification Standard for Federal Employees and Contractors*. HSPD-12 directed the declaration of a Federal standard for a secure and reliable form of identification for Federal employees and contractors.

- **What is the current status of SBA's implementation of HSPD-12?**

RESPONSE: We are issuing PIV cards, performing system maintenance, and preparing our internal partners to increase the output of PIV cards.

- **How is the agency performing against its budget and schedule for HSPD-12 implementation? What are the total costs incurred to date and what are the estimated costs to complete? When will the project be completed?**

RESPONSE: While it is highly unlikely that the agency will meet the OMB mandated date of October 27, 2008 to issue PIV cards to all employees and contractors, we are on target to issue cards to approximately 1000 by that date which is in line with our current budget and adjusted milestones. We plan to aggressively issue PIV cards to the remaining individuals the following year assuming funds are available. With the funds provided to date, SBA developed the system infrastructure and operational system that produces PIV cards that meet the requirements set by GSAJNIST and passed their test on March 20, 2007. We are issuing fully compliant PIV cards.

To date the agency has incurred \$4,387,294.43 in costs to support HSPD-12. To continue with efforts planned for FY08, SBA will expend an additional \$880,000. In FY09 SBAs budget includes \$872,756 for PMO and integration support. Starting in FY 10, the PMO support will decrease but the integration support will continue indefinitely and will require approximately \$600,000 annually.

This is an on-going project. Data systems have to be maintained, licenses renewed, PIV cards issued to new hires, help desk support, etc.

- **How many employees have received Personal Identity Verification cards to date and how many employees have not yet received them?**

RESPONSE: We have issued 322 PIV cards mainly to HQ employees and plan to issue another 678 by October 2008. Based on an SBA population of 4000 which includes ODA, 3,678 employees have not received PIV cards yet.

Questions for the Record from Mr. Regula

Small Business Development Centers (SBDCs)

SBA's primary method of providing management assistance to small businesses is through your national network of Small Business Development Centers that combine Federal, state and private resources to provide small businesses and aspiring entrepreneurs with technical assistance to help establish new businesses and expand current businesses. SBDCs are very popular and successful. So I am disappointed that the budget request proposes to reduce Federal funding from \$97.1 million in fiscal year 2008 to \$87.1 million in fiscal year 2009.

- **Would you explain why the Administration is proposing to cut this program?**
- **Do you think this reduction will impact the services SBDCs provide to small businesses?**

RESPONSE: The Administration is requesting funding for FY 2009 at the same level as the President's request for FY 2008. This is a decrease from the level funded through the Appropriation in FY 2008.

SBA funding for Entrepreneurial Development programs provides only a portion of the funding used by SCORE, SBDCs, and Women Business Centers with those organizations raising match or volunteer resources.

Federal funding for Entrepreneur Development programs provides the foundation of a national, predictable, and equitably distributed funding source for local ED program partners (SCORE, WBCs, SBDCs) to build upon. Local ED Partners then draw from over 1,000 community funding sources which include state and local governments, private sector contributors, and non-profit foundations to match, leverage, and expand upon SBA funding.

The stability, success and ultimate expansion of ED programs is based on a critical balance of federal, state and local resources, that when combined, provide for a stable, comprehensive community base for entrepreneurial services. Federal funding acts as a catalyst for local investment. Local support is the best evidence that SBA programs are succeeding in reaching targeted client groups.

The total SBA ED program funding allows ED Resource Partners to develop programs, hire and maintain staff, and continue to provide long term program structures. In turn, they attract local funding sources that build upon the SBA funding. Those ED programs (WBCs and SBDCs) that can demonstrate successful performance to local funders are able to increase their funding beyond the SBA matching requirements and, in turn, expand service. It's through this local market test of demonstrated results that ED Resource Partners expand programs.

Defense Economic Transition Assistance

I noticed that you fund the Defense Economic Transition Assistance (DETA) Initiative in your budget. This funding has been vital in providing specialized services to companies affected by the Base Realignment and Closure (BRAC) process.

- **Could you speak to the effectiveness of this program and how much you plan to spend on this program in fiscal year 2009?**

RESPONSE: The SBA's Defense Economic Transition Assistance (DETA) program has been one of the Office of Small Business Development Center's (OSBDC) targeted programs for small businesses affected by Base Realignment and Closure (BRAC) decisions. The program in Ohio is a good example of the use of this funding. The defense industry in Ohio and many other communities has been affected by "downsizing, conversion, outsourcing, consolidation and realignment." DETA funding has enabled SBDCs to help small businesses respond to and explore the opportunities of defense procurement while helping them handle the effects of downsizing and other pressures caused by BRAC on local defense communities.

The Ohio funded DETA program assists small businesses with many of the following:

- Technology and e-Commerce
- Business security issues
- Procurement opportunities and emerging changes (electronic data mining) in the government procurement industry
- Human Resource Management
- Assisting businesses in capturing opportunities and become more agile in their response
- Change Management

The SBDC DETA contract award requires quarterly reporting on activities. Since DETA activities are predicated on local need, the activities and data reported vary widely but include such impact as:

- The number of counseling sessions for the period
- Many free or nominally-priced training courses on:
 - ✦ Starting a business
 - ✦ FastTrac
 - ✦ Dislocated workers
- Company sales increases
- Anecdotal success stories

The program was implemented in FY 1995 and funded for \$3,375,000. It has been funded every year since FY 1995 for \$2,000,000. OSBDC prepares an RFP once every three years and only Lead SBDC centers may apply. This includes the basic year with two option years. All proposals are evaluated and the SBDCs with the highest scores receive the awards.

Patriot Express

I understand that your Patriot Express program has provided over \$100 million in more than 1,000 loans to military service members, veterans and spouses.

- **Can you describe how the program works and what other support does SBA provide to veterans who want to establish a business?**

RESPONSE: SBA's Patriot express program works to provide access to capital for businesses that meet SBA's standard eligibility requirements and that are 51 percent or more owned by an individual or individuals in one or more of the following groups: Veterans (other than dishonorably discharged), Service-Disabled Veterans, Active Duty Military member participating in the military's Transition Assistance Program (TAP), Reservists and National Guard members; as well as current spouses of someone belonging to the groups above and widowed spouses of a service member who died while in service or of a service-connected disability.

Patriot Express loan is offered by SBA's network of participating lenders nationwide and features our fastest turnaround time for loan approvals and lowest interest rates for business loans, generally 2.25 percent to 4.75 percent over prime depending upon the size and maturity of the loan. Loans are available up to \$500,000 and qualify for SBA's maximum guaranty of up to 85 percent for loans of \$150,000 or less and up to 75 percent for loans over \$150,000 up to \$500,000. For loans above \$350,000, lenders are required to take all available collateral.

The Patriot Express loan can be used for most business purposes, including start-up, expansion, equipment purchases, working capital, inventory or business-occupied real-estate purchases. In addition to Patriot Express, all 7(a) and 504 loan programs are available to veterans and SBA provides outreach, technical assistance and procurement programs to support veterans seeking to start and grow businesses.

SBA's *Office of Veterans Business Development* provides funding and collaborative assistance for a number of special initiatives. The office works to support business ownership in the military community through Veteran Business Outreach Centers (VBOCs). These centers provide counseling, training and business assistance tools designed to aid veteran and service-disabled veteran entrepreneurs and self-employed members of the Reserve and National Guard start, manage and grow successful small business concerns or restart or reestablish their small businesses upon return from active duty. SBA has also established Veterans Business Development Officers (VBD Officers) in each SBA District Office, who serve as local point of contacts to assist veteran small business owners and entrepreneurs.

Additionally, SBA has also developed customized business assistance tools, "Balancing Business and Deployment" and "Getting Veterans Back to Business," which aim to help self-employed members of the Reserve and National Guard to prepare for mobilization and to re-establish their business upon return from active duty. In addition SBA has established an online matchmaking segment that may prove useful to both veterans and service-disabled veterans, as well as to self-employed members of the Reserve and National Guard.

7(a) Business Loans

For the past several years, the 7(a) program, SBA's primary business loan program, has not required a subsidy appropriation. The fees associated with the program are sufficient to cover the program's losses.

How has becoming a zero subsidy program impacted the effectiveness of the program?

RESPONSE: Since becoming a zero subsidy program in 2005, SBA's 7(a) program has remained an effective program for providing capital to small business concerns. Since 2005, SBA has had two record-breaking years of lending volume. For FY 2007, the number of loans approved was almost 23 percent above FY 2004 levels (the last year the program was subsidized) and the dollar amount of loans was 5.3 percent higher. Overall FY 2008 7(a) lending is down from this period last year. During a series of roundtable discussions across the country, lenders indicated that the reasons for this decline primarily include a decrease in overall demand by small businesses, a tightening of lenders' credit standards in the aftermath of the subprime mortgage crisis, and deterioration in the credit quality of potential borrowers. SBA believes that zero subsidy is still the best policy for the long term stability and growth of the 7(a) loan program.

When SBA converted the 7(a) loan program to a zero subsidy loan program for FY 2005, the fees supporting the 7(a) program were returned to their pre-September 11 historical levels. (After September 11, 2001, fees for the 7(a) program were reduced for fiscal years 2003 and 2004 in the hopes of stimulating the economy that suffered from the terrorist attack.) Prior to that, the fees had been the same since December, 2000. Since the 7(a) program became a zero subsidy program, the only fee that has been adjusted slightly upward has been the on-going annual fee paid by the lender. That fee increased by only 4.5 basis points from 0.50 percent to 0.545 percent during FY 2006. For FY 2007, the fee increased slightly again to 0.55 percent, an increase of only ½ of 1 basis point. And for FY 2008, the fee has been decreased to 0.494 percent which will bring the fees for 7(a) below those charged pre 9-11 when the 7(a) program was subsidized.

Disaster Loan Program

I understand that SBA has approved approximately 120,000 disaster loans resulting in more than \$6 billion being provided to rebuild the Gulf Coast. In the aftermath of the Gulf Coast hurricanes, SBA has been criticized for not responding quickly, and not approving and disbursing loans to victims quickly. There was also some concern that disaster loans were being approved without the proper paperwork, such as proof that borrowers owned the home they were getting a loan to rebuild or documentation of the required insurance.

• **What have you learned from the Gulf Coast hurricanes?**

RESPONSE: On June 1, 2007, SBA delivered a comprehensive Disaster Recovery Plan to Congress. As stated in the plan:

- SBA is prepared to respond. Based on process improvement and lessons learned, SBA has a much-improved organizational infrastructure to respond to catastrophic disaster activity swiftly and effectively.
- SBA is trained to respond. Training and coordination are the keys to preparedness. The vast majority of employees involved in SBA's catastrophic disaster response have been trained and will continue to be trained in their roles. They also will receive clear guidance on how the recovery plan will be implemented.

- SBA's response requires an "all hands on deck" approach. Employees across the entire SBA organization will have key roles to play in core functions and will be valuable assets to help SBA achieve the level of performance America requires and expects.
- SBA takes pride in quality assurance and customer service. The Agency will continuously strive to deliver the highest level of quality in service. Customers will be provided with the necessary support and communication channels to minimize confusion and ensure a positive experience during their time of greatest need.
- SBA's response will be coordinated with its government partners. The Agency will communicate with local, state, and federal government agencies, including Congress, to deliver timely assistance.

• **How have you improved your ability to estimate your funding requirements associated with disasters?**

RESPONSE: The Agency now possesses the capability to determine resource needs – financial, human capital (by function), and logistics – required to maximize SBA's response against a number of different application volume scenarios. The Agency is refining detailed action plans to determine the appropriate resource needs outlined in each scenario and to establish protocols for action to respond accordingly. To prepare for future disasters, the Agency has obtained and implemented FEMA's HAZUS software product into its disaster response planning. The software is being used to provide additional information – such as estimated losses, regional demographic information, and community infrastructure information – which is crucial to the Agency to better gauge the resources needed in each scenario, initially and throughout a disaster response period. By using this information in conjunction with the risk monitoring procedures, SBA will be able to craft a scenario-specific, accurate response. Recognizing the continued benefits of forecasting, SBA is reviewing external disaster models to determine how best to link the expected scope of potential disasters with our preparedness estimates. Further, external models will provide SBA with information on a greater variety of disasters, and with crucial additional information (such as levels of insurance coverage) that is not available elsewhere.

• **What are you doing to ensure that eligible disaster victims receive loans quickly, while ensuring that the program is not subject to fraud?**

RESPONSE: Since August of 2006, ODA has engaged in a comprehensive reengineering of the processes, tools and policies that directly impact disaster victims' experience with SBA and the ability of SBA loan processing employees to provide customer-focused service.

The Accelerated Disaster response initiative (ADRI) focuses on improving the disaster victims' end-to-end experience from disaster loan application, through approval and

closing, to final disbursement of funds. The driving principles behind ADRI are speed of response, customer support and quality.

The ADRI was focused on deploying a series of near-term (2007) and longer-term (2008) improvements. These improvements, spanning across five key success factors, were addressed by eight cross-functional reengineering teams operating with the mandate to design, test and implement solutions as quickly as possible. The eight Rapid Action Teams have collectively launched and completed a total of 164 Action Projects.

Additionally, ODA has developed an extensive Quality Assurance Review (QAR) process in the Centers and from ODA Headquarters. The process ensures that policy and procedures are being followed.

Loan Modernization and Accounting System

Your budget request includes \$16 million for the development of a loan modernization and accounting system. Historically the Federal government continues to have difficulty developing new complex information technology projects such as IRS's Business System Modernization program, the FBI's failed case management system, the National Archives' Electronic Records Archive, and the Census Bureau's failures to develop a handheld computer device for enumerators to use for the 2010 census.

Do you have the right staff with the necessary information technology, and program and contract management expertise?

RESPONSE: SBA recognizes that it does not possess strong institutional knowledge on managing large information technology projects of this scope. Therefore, the agency is taking a number of steps to mitigate risks by hiring qualified project managers to manage this program and using performance based contracts for additional program management, system integration and IV & V support. This is a top priority of the agency, and senior executives will be integrally involved in the management of this project.

Information Technology expertise - We will be implementing the new COTS package and we will not have that expertise in-house. We will train our existing information technology staff. The solution provider will implement and maintain the solution.

Program Management Expertise – SBA is in the process of hiring two additional project managers. SBA is also in the process of acquiring the program management services to help manage the project.

Contract Management Expertise – We are in the process of requesting dedicated resource for this project.

What are you doing to make sure this program will be successful and not another failed government IT system?

RESPONSE:

- We are implementing Program Management Office to manage, monitor and control the program using project management best practices.
- We will acquire the services of IV&V service provider to perform quality assurance and Independent Verification and Validation.
- We will develop the blueprint and identify small phases/increments with clearly defined scope, schedule and cost. We will issue the performance based Firm Fixed Price (FFP) task orders for different phases and manage each phase as a separate project.
- We have implemented the change management process to ensure that we manage the changes and its impact on the baseline very cautiously.
- We are involving the stakeholders from the beginning. They participated in the market research; they are participating in the acquisition process; and, they will participate in the requirements gathering, design, testing and implementation of each phase/increment.

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